COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES

Senate

Official Hansard

No. 4, 2010
Monday, 22 November 2010

FORTY-THIRD PARLIAMENT
FIRST SESSION—FIRST PERIOD

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FORTY-THIRD PARLIAMENT
FIRST SESSION—FIRST PERIOD

Governor-General
Her Excellency Ms Quentin Bryce, Companion of the Order of Australia

Senate Officeholders

President—Senator Hon. John Joseph Hogg

Deputy President and Chair of Committees—Senator Hon. Alan Baird Ferguson


Leader of the Government in the Senate—Senator Hon. Christopher Vaughan Evans

Deputy Leader of the Government in the Senate—Senator Hon. Stephen Michael Conroy

Leader of the Opposition in the Senate—Senator Hon. Eric Abetz

Deputy Leader of the Opposition in the Senate—Senator Hon. George Henry Brandis SC

Manager of Government Business in the Senate—Senator Hon. Joseph William Ludwig

Manager of Opposition Business in the Senate—Senator Mitchell Peter Fifield

Senate Party Leaders and Whips

Leader of the Australian Labor Party—Senator Hon. Christopher Vaughan Evans

Deputy Leader of the Australian Labor Party—Senator Hon. Stephen Michael Conroy

Leader of the Liberal Party of Australia—Senator Hon. Eric Abetz

Deputy Leader of the Liberal Party of Australia—Senator Hon. George Henry Brandis SC

Leader of the Nationals—Senator Barnaby Thomas Gerard Joyce

Deputy Leader of the Nationals—Senator Fiona Nash

Leader of the Australian Greens—Senator Robert James Brown

Deputy Leader of the Australian Greens—Senator Christine Anne Milne

Leader of the Family First Party—Senator Steve Fielding

Chief Government Whip—Senator Anne McEwen

Deputy Government Whips—Senators Carol Louise Brown and Helen Beatrice Polley

Chief Opposition Whip—Senator Stephen Shane Parry

Deputy Opposition Whips—Senators Judith Anne Adams and David Christopher Bushby

The Nationals Whip—Senator John Reginald Williams

Australian Greens Whip—Senator Rachel Mary Siewert

Family First Party Whip—Senator Steve Fielding

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(1) Chosen by the Parliament of South Australia to fill a casual vacancy vice Amanda Eloise Vanstone, resigned.
(2) Chosen by the Parliament of Western Australia to fill a casual vacancy vice Ian Campbell, resigned.
(3) Chosen by the Parliament of Western Australia to fill a casual vacancy vice Christopher Martin Ellison, resigned.
(4) Term expires at close of day next preceding the polling day for the general election of members of the House of Representatives.

PARTY ABBREVIATIONS
AG—Australian Greens; ALP—Australian Labor Party; CLP—Country Liberal Party;
FF—Family First Party; LP—Liberal Party of Australia; NATS—The Nationals

Heads of Parliamentary Departments
Clerk of the Senate—R Laing
Clerk of the House of Representatives—B Wright
Secretary, Department of Parliamentary Services—A Thompson
GILLARD MINISTRY

Prime Minister
Hon. Julia Gillard MP

Deputy Prime Minister and Treasurer
Hon. Wayne Swan MP

Minister for Regional Australia, Regional Development and Local Government
Hon. Simon Crean MP

Minister for Tertiary Education, Skills, Jobs and Workplace Relations and Leader of the Government in the Senate
Senator Hon. Chris Evans

Minister for School Education, Early Childhood and Youth
Hon. Peter Garrett AM MP

Minister for Broadband, Communications and the Digital Economy and Deputy Leader of the Government in the Senate
Senator Hon. Stephen Conroy

Minister for Foreign Affairs
Hon. Kevin Rudd MP

Minister for Trade
Hon. Dr Craig Emerson MP

Minister for Defence and Deputy Leader of the House
Hon. Stephen Smith MP

Minister for Immigration and Citizenship
Hon. Chris Bowen MP

Minister for Infrastructure and Transport and Leader of the House
Hon. Anthony Albanese MP

Minister for Health and Ageing
Hon. Nicola Roxon MP

Minister for Families, Housing, Community Services and Indigenous Affairs
Hon. Jenny Macklin MP

Minister for Sustainability, Environment, Water, Population and Communities
Hon. Tony Burke MP

Minister for Finance and Deregulation
Senator Hon. Penny Wong

Minister for Innovation, Industry, Science and Research
Senator Hon. Kim Carr

Attorney-General and Vice President of the Executive Council
Hon. Robert McClelland MP

Minister for Agriculture, Fisheries and Forestry and Manager of Government Business in the Senate
Senator Hon. Joe Ludwig

Minister for Resources and Energy and Minister for Tourism
Hon. Martin Ferguson AM, MP

Minister for Climate Change and Energy Efficiency
Hon. Greg Combet AM, MP

[The above ministers constitute the cabinet]
GILLARD MINISTRY—continued

Minister for the Arts
Hon. Simon Crean MP
Minister for Social Inclusion
Hon. Tanya Plibersek MP
Minister for Privacy and Freedom of Information
Hon. Brendan O’Connor MP
Minister for Sport
Senator Hon. Mark Arbib
Special Minister of State for the Public Service and Integrity
Hon. Gary Gray AO, MP
Assistant Treasurer and Minister for Financial Services and Superannuation
Hon. Bill Shorten MP
Minister for Employment Participation and Childcare
Hon. Kate Ellis MP
Minister for Indigenous Employment and Economic Development
Senator Hon. Mark Arbib
Minister for Veterans’ Affairs and Minister for Defence Science and Personnel
Hon. Warren Snowdon MP
Minister for Defence Materiel
Hon. Jason Clare MP
Minister for Indigenous Health
Hon. Warren Snowdon MP
Minister for Mental Health and Ageing
Hon. Mark Butler MP
Minister for the Status of Women
Hon. Kate Ellis MP
Minister for Social Housing and Homelessness
Senator Hon. Mark Arbib
Special Minister of State
Hon. Gary Gray AO, MP
Minister for Small Business
Senator Hon. Nick Sherry
Minister for Home Affairs and Minister for Justice
Hon. Brendan O’Connor MP
Minister for Human Services
Hon. Tanya Plibersek MP
Cabinet Secretary
Hon. Mark Dreyfus QC, MP
Parliamentary Secretary to the Prime Minister
Senator Hon. Kate Lundy
Parliamentary Secretary to the Treasurer
Hon. David Bradbury MP
Parliamentary Secretary for School Education and Workplace Relations
Senator Hon. Jacinta Collins
Minister Assisting the Prime Minister on Digital Productivity
Senator Hon. Stephen Conroy
Parliamentary Secretary for Trade
Hon. Justine Elliot MP
Parliamentary Secretary for Pacific Island Affairs
Hon. Richard Marles MP
Parliamentary Secretary for Defence
Senator Hon. David Feeney
Parliamentary Secretary for Immigration and Citizenship
Senator Hon. Kate Lundy
Parliamentary Secretary for Infrastructure and Transport and Parliamentary Secretary for Health and Ageing
Hon. Catherine King MP
Parliamentary Secretary for Disabilities and Carers
Senator Hon. Jan McLucas
Parliamentary Secretary for Community Services
Hon. Julie Collins MP
Parliamentary Secretary for Sustainability and Urban Water
Senator Hon. Don Farrell
Minister Assisting on Deregulation
Senator Hon. Nick Sherry
Parliamentary Secretary for Agriculture, Fisheries and Forestry
Hon. Dr Mike Kelly AM, MP
Minister Assisting the Minister for Tourism
Senator Hon. Nick Sherry
Parliamentary Secretary for Climate Change and Energy Efficiency
Hon. Mark Dreyfus QC, MP
SHADOW MINISTRY

Leader of the Opposition                  Hon. Tony Abbott MP
Deputy Leader of the Opposition and Shadow Minister for Foreign Affairs and Shadow Minister for Trade Hon. Julie Bishop MP
Leader of the Nationals and Shadow Minister for Infrastructure and Transport Hon. Warren Truss MP
Leader of the Opposition in the Senate and Shadow Minister for Employment and Workplace Relations Senator Hon. Eric Abetz
Deputy Leader of the Opposition in the Senate and Shadow Attorney-General and Shadow Minister for the Arts Senator Hon. George Brandis SC
Shadow Treasurer                         Hon. Joe Hockey MP
Shadow Minister for Education, Apprenticeships and Training and Manager of Opposition Business in the House Hon. Christopher Pyne MP
Shadow Minister for Indigenous Affairs and Deputy Leader of the Nationals Senator Hon. Nigel Scullion
Shadow Minister for Regional Development, Local Government and Water and Leader of the Nationals in the Senate Senator Barnaby Joyce
Shadow Minister for Finance, Deregulation and Debt Reduction and Chairman, Coalition Policy Development Committee Hon. Andrew Robb AO, MP
Shadow Minister for Energy and Resources Hon. Ian Macfarlane MP
Shadow Minister for Defence               Senator Hon. David Johnston
Shadow Minister for Communications and Broadband Hon. Malcolm Turnbull MP
Shadow Minister for Health and Ageing     Hon. Peter Dutton MP
Shadow Minister for Families, Housing and Human Services Hon. Kevin Andrews MP
Shadow Minister for Climate Action, Environment and Heritage Hon. Greg Hunt MP
Shadow Minister for Productivity and Population and Shadow Minister for Immigration and Citizenship Mr Scott Morrison MP
Shadow Minister for Innovation, Industry and Science Mrs Sophie Mirabella MP
Shadow Minister for Agriculture and Food Security Hon. John Cobb MP
Shadow Minister for Small Business, Competition Policy and Consumer Affairs Hon. Bruce Billson MP

[The above constitute the shadow cabinet]
SHADOW MINISTRY—continued

Shadow Minister for Employment Participation  Hon. Sussan Ley MP
Shadow Minister for Justice, Customs and Border Protection  Mr Michael Keenan MP
Shadow Assistant Treasurer and Shadow Minister for Financial Services and Superannuation  Senator Mathias Cormann
Shadow Minister for Childcare and Early Childhood Learning  Hon. Sussan Ley MP
Shadow Minister for Universities and Research  Senator Hon. Brett Mason
Shadow Minister for Youth and Sport and Deputy Manager of Opposition Business in the House  Mr Luke Hartsuyker MP
Shadow Minister for Indigenous Development and Employment  Senator Marise Payne
Shadow Minister for Regional Development  Hon. Bob Baldwin MP
Shadow Special Minister of State  Hon. Bronwyn Bishop MP
Shadow Minister for COAG  Senator Marise Payne
Shadow Minister for Tourism  Hon. Bob Baldwin MP
Shadow Minister for Defence Science, Technology and Personnel  Mr Stuart Robert MP
Shadow Minister for Veterans’ Affairs  Senator Hon. Michael Ronaldson
Shadow Minister for Regional Communications  Mr Luke Hartsuyker MP
Shadow Minister for Ageing and Shadow Minister for Mental Health  Senator Concetta Fierravanti-Wells
Shadow Minister for Seniors  Hon. Bronwyn Bishop MP
Shadow Minister for Disabilities, Carers and the Voluntary Sector and Manager of Opposition Business in the Senate  Senator Mitch Fifield
Shadow Minister for Housing  Senator Marise Payne
Chairman, Scrutiny of Government Waste Committee  Mr Jamie Briggs MP
Shadow Cabinet Secretary  Hon. Philip Ruddock MP
Shadow Parliamentary Secretary Assisting the Leader of the Opposition  Senator Cory Bernardi
Shadow Parliamentary Secretary for International Development Assistance  Hon. Teresa Gambaro MP
Shadow Parliamentary Secretary for Roads and Regional Transport  Mr Darren Chester MP
Shadow Parliamentary Secretary to the Shadow Attorney-General  Senator Gary Humphries
Shadow Parliamentary Secretary for Tax Reform and Deputy Chairman, Coalition Policy Development Committee  Hon. Tony Smith MP
Shadow Parliamentary Secretary for Regional Education  Senator Fiona Nash
Shadow Parliamentary Secretary for Northern and Remote Australia  Senator Hon. Ian Macdonald
Shadow Parliamentary Secretary for Local Government  Mr Don Randall MP
Shadow Parliamentary Secretary for the Murray-Darling Basin  Senator Simon Birmingham
Shadow Parliamentary Secretary for Defence Materiel  Senator Gary Humphries
Shadow Parliamentary Secretary for the Defence Force and Defence Support  Senator Hon. Ian Macdonald
Shadow Parliamentary Secretary for Primary Healthcare  Dr Andrew Southcott MP
| Shadow Parliamentary Secretary for Regional Health Services and Indigenous Health | Mr Andrew Laming MP |
| Shadow Parliamentary Secretary for Supporting Families | Senator Cory Bernardi |
| Shadow Parliamentary Secretary for the Status of Women | Senator Michaelia Cash |
| Shadow Parliamentary Secretary for Environment | Senator Simon Birmingham |
| Shadow Parliamentary Secretary for Citizenship and Settlement | Hon. Teresa Gambaro MP |
| Shadow Parliamentary Secretary for Immigration | Senator Michaelia Cash |
| Shadow Parliamentary Secretary for Innovation, Industry, and Science | Senator Hon. Richard Colbeck |
| Shadow Parliamentary Secretary for Fisheries and Forestry | Senator Hon. Richard Colbeck |
| Shadow Parliamentary Secretary for Small Business and Fair Competition | Senator Scott Ryan |
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The PRESIDENT (Senator the Hon. John Hogg) took the chair at 12.30 pm and read prayers and made an acknowledgement of country.

TELECOMMUNICATIONS LEGISLATION AMENDMENT (COMPETITION AND CONSUMER SAFEGUARDS) BILL 2010

Second Reading

Debate resumed from 17 November, on motion by Senator Feeney:

That this bill be now read a second time.

Senator BIRMINGHAM (South Australia) (12.31 pm)—It is a pleasure to rise and to speak on the Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2010. During the course of this debate in the Senate I have no doubt we will hear various interpretations from those opposite about what is actually in this bill and what the purpose of this legislative package is. Let us be under no illusions: this bill does, indeed, deal with matters that relate to the separation of Telstra; it does deal with matters that relate to various competition and consumer measures—some may say various anticompetitive measures; but at its heart this bill is interrelated with the government’s policy to build the National Broadband Network. There can be no disputing the fact that woven throughout this legislative package is the government’s $43 billion fibre-to-the-home NBN proposal.

I want to deal firstly with issues around the NBN before I touch more particularly on some of the matters relevant to the bill. I have said before in this place that the commitment to fast, affordable and universal broadband access is nowadays a bit like motherhood in this place: everyone agrees to it, everyone supports it, everyone expects that that should be the policy outcome. It is the journey and the means to get there that matters most, and this is where the coalition and the government part company.

We believe the achievement of this goal is best achieved through a competitive telecommunications sector: a sector that encourages innovation; a sector that encourages sound competition; a sector that is driven by private investment, as it has always been; but, importantly, a sector where government has a role to play in filling the gaps where there is a market failure—where that ultimate policy goal of universal, affordable broadband access cannot be achieved. These we think are appropriate ways to go about achieving a sound policy objective.

However, the government seems to believe that it is far better to dismantle all that we have, to deconstruct the competitive and competition policy arrangements and frameworks we have in this country, and instead to build a new $43 billion government owned monopoly enterprise. It plans to do so by overbuilding and dismantling the entire ex-
isting framework—the copper network that currently exists as well as cable networks that exist around Australia. This will assist in creating its fixed line monopoly, yes, but it will see the destruction or the waste of much infrastructure that is already rolled out around Australia. It will see in places around Australia that already enjoy access to high-speed broadband the overlaying of a new fibre cable to deliver high-speed broadband. If this duplication of infrastructure is not waste then I am at a loss to see what could possibly be a wasteful outcome.

Of course this legislative package in many ways is all about entrenching the monopoly position that the government hopes its NBN Co. will enjoy, because this legislation does not just set out terms on which Telstra should be structurally separated; it goes further and in going further it actually puts in place and reinforces contractual arrangements that will prevent Telstra from using its HFC network to offer competitive voice and data services with the NBN. Let us be clear: the HFC network is not going to be decommissioned. It will still be providing pay-TV services and it will still be connected door-to-door to thousands of Australian homes, but it will be prevented from actually providing an alternative, competitive broadband service.

We recognise that Telstra shareholders—at least, the Telstra board—have indicated support for parts of this legislative package. After all, they are getting an $11-billion after-tax windfall as a result of the deal that has been struck between the government and Telstra, and good luck to Telstra shareholders in that regard. But I think we would be having a markedly different debate if this were not so integrated with the NBN proposal. It would be markedly different because we would actually be having a debate about how best to separate Telstra and doing so at the lowest cost for taxpayers whilst ensuring maximum value for Telstra shareholders. We would be debating how we would ensure ongoing competitiveness in the provision of broadband in Australia. Instead, we are going to have a debate that is focused on the government monopoly that they are proposing to build, because that is at the heart and centre of so many of the conditions that sit within this legislation.

I recall, in one of the many Senate hearings into the NBN proposal, asking David Forman of the Competitive Carriers Coalition what was more important: this legislation or building the NBN? Whilst Mr Forman said that he did not think it had to be a choice, he indicated that, ultimately, getting a separation of Telstra was far more important to competition in Australia than building the NBN was. I think it is important that we should have been having in this place a fair-dinkum debate—separate from the NBN debate—about how best to separate Telstra and how best to achieve those competitive outcomes. Sadly, the government’s approach has been to integrate the NBN throughout this. Many anti-competitive measures have been buried in this legislation to assist the NBN. That can only harm the quality of the debate we can have in this regard.

The government seems to be saying nowadays that anything less than a fibre-to-the-home package at 100 megabits per second is inadequate. Yet, in doing so, it is offering no evidence or rationale as to why that is inadequate—why Australia will suddenly reap enormous windfall benefits from such a huge transformation of speeds in the broadband space. We on this side have challenged the government to undertake a thorough cost-benefit analysis, a Productivity Commission assessment. Yet, sadly, the government has rejected those challenges from the opposition. If the government is so confident in its beliefs that the NBN is going to provide massive benefits for Australia, then why not undertake the Productivity Commission
cost-benefit analysis that is being called for? Why shirk this type of scrutiny? Such scrutiny could tell Australian taxpayers once and for all whether putting $43 billion into fibre-to-the-home is a good investment and whether the idea of government picking the technology for the delivery of future broadband services is a good idea and, indeed, whether the technology picked is the right one. Such scrutiny could tell us whether, as we on this side believe, you would be far better off ensuring—for the vast areas of Australia where a competitive telecommunications market already exists and could be further enhanced by some of the measures in this legislation—competition and letting the private sector and private industry get on with the job of choosing the technologies for themselves. Such scrutiny could tell us whether, essentially, government should be technologically agnostic in the policy parameters it sets rather than trying to pick winners. Higher speeds of course sound attractive, but we are talking about investing a vast sum of public money and it is critical that the government justify the investment of that vast sum. The disappointment to date has been that the government has not been willing to do so.

We have seen the government fly in the face of its own guidelines, such as those released by Infrastructure Australia in October 2009 for better infrastructure decision-making. They stated that all initiatives proposed to Infrastructure Australia should include ‘a thorough and detailed economic cost-benefit analysis.’ The guidelines went on to state:

In order to demonstrate that the Benefit Cost Analysis is indeed robust, full transparency of the assumptions, parameters and values which are used in each Benefit Cost Analysis is required.

Those guidelines were released by an agency established by this government to look at how infrastructure should be built. Yet, for the largest infrastructure proposal of its kind, the government is tossing out its own guidelines.

Last week, the OECD handed down a report calling for a more robust approach and greater transparency in the way the NBN was developed—essentially, urging the government to hasten slowly in the progress surrounding its NBN. Yet the government still charges ahead, and refuses to undertake such a cost-benefit analysis. I hope that, during the course of this debate, we will see the government relent on this and acknowledge that there is benefit in doing so. The opposition is not, contrary to what those opposite say, seeking to hold the project up while this cost-benefit analysis is undertaken. We expect and accept that the government will continue with its deals and its build, but we believe that Australians would be better off if, by early next year or the middle of next year, after a thorough analysis, we were informed as to whether this was on the right track or not. Then Australia could make appropriate considerations about the government’s expenditure of so many billions of dollars.

A key concern of ours in relation to this legislation is that it is occurring under duress for Telstra. The government is essentially holding a gun at the head of one of Australia’s largest publicly listed companies in order to ensure that it gets its way and its NBN Co. is protected into the future. We do not think that such a deal is appropriate, especially not when it is aimed at trying to create a whole new government monopoly. As I have said before, any restructuring should be on terms that are fair to Telstra shareholders and to taxpayers—and on both those counts, it seems, this deal fails. Telstra shareholders are expected to operate under the duress of a threat that they will be denied access to future investment opportunities in the telecommunications market if they do not deal
with the government, and taxpayers are de-
nied the opportunity to see and know
whether this is a wise policy and a wise in-
vestment of taxpayer funds.

The opposition have stated that we believe
a separation could occur, on terms that are
attractive to Telstra shareholders, if a result-
ing network company were given regulatory
certainty and the knowledge that as a regu-
lated utility it would be able to charge prices
that deliver a reasonable rate of return on its
assets. We think this type of separation could
achieve a better outcome for the broadband
sector in Australia, for Telstra shareholders
and, importantly, for Australia’s taxpayers.

As well as driving the separation of Tel-
stra, there are some key objectives in this
legislation. In the competition space, the bill
seeks to exempt the proposed Telstra-NBN
Co. agreement and possible NBN Co. deals
with carriers such as Optus from the normal
operation of the Competition and Consumer
Act. We see this deal as anti-competitive
because it envisages Telstra being contractu-
ally required to decommission its copper
network—an asset that still has value, even if
that value is lessening—even as the NBN is
rolled out. Once again we have a situation
where the government is seeking to eliminate
all competition or alternatives. As I have
stated before, Telstra and, presumably, Optus
will be prohibited from offering broadband
and voice services over their HFC pay-TV
cable networks. This infrastructure passes 30
per cent of Australian homes already and
could be tuned up to deliver over 100 mega-
bits today, yet it will be expected to lie dor-
mant in the broadband space. The HFC net-
work will not be decommissioned; it will
continue to provide pay-TV services only.
This is an approach that is without precedent
anywhere in the world. The government is
trying to eliminate all other forms of poten-
tial fixed line to the household competition
in Australia in order to establish its signifi-
cant new monopoly.

The third key area that the bill seeks to
address is in relation to the access regime.
The existing regime is widely seen to be only
partly effective, since Telstra has frequently
been able to negotiate and arbitrate a frame-
work to delay and frustrate access seekers.
We acknowledge that and, indeed, there is
space to improve that. The bill seeks to
amend the access regime included in the
Competition and Consumer Act away from
these traits and, instead, to a new model
where the ACCC sets upfront price and non-
price terms for declared services for periods
of three to five years. This shift to a set and
forget model would provide increased cer-
tainty for access seekers and carriers. But, in
providing more certainty for Telstra’s com-
petitors, we need to be careful not to tip the
balance too far and unfairly limit the company’s scope to appeal if the ACCC gets it
wrong. Therefore, in this space as well as in
the others that I have mentioned, we will
have some amendments to try to restore
merit review processes and reinstate the
ACCC’s procedural fairness obligations
when it issues competition notices.

Finally the bill reinforces existing con-
sumer protection safeguards, including the
USO and the customer service guarantee.
While these changes place an increased bur-
den on carriers, the coalition does support
them and will not be moving amendments in
this area. In particular, we believe it is criti-
cal that consumer protections be meticu-
lously upheld in rural and regional areas,
which is where we believe the No. 1 focus of
broadband policy in this country should be.

The coalition will be seeking to move a
series of amendments during the debate on
this legislation. Most of these have been
covered and countenanced in the House of
Representatives already and we look forward.
to considering the amendments of those from the crossbench too. I do note that there is some media coverage today speculating that amendments have been struck, or agreed to, between the Greens and the government. I note that, irony of all ironies, those amendments suggest that the government is willing to accept a Productivity Commission assessment of the NBN—once it has finished spending the $43 billion on building it—to determine whether it should be privatised. This is the ultimate case of the government putting the cart before the horse. The government has an opportunity here and now to have a Productivity Commission analysis; it can do it today, it can get it underway right now, and it can do it without waiting until the end of the cycle. The fact that the government has agreed, in a dodgy deal with the Greens, to have it put in at the end of this process rather than upfront is an outrage and it is something the government needs to look long and hard at because all Australians will see the folly of assessing the state of the market and the expenditure of some $43 billion after it has happened rather than before.

The coalition’s amendments seek to achieve a fair outcome for Telstra shareholders and Australian taxpayers, to remove the gun at the head of Telstra shareholders and to ensure that taxpayers get a fair deal. I would hope that Senator Xenophon, Senator Fielding and the Greens will be amenable to considering these agreements and, importantly, I hope that, at the end of this debate, the government acknowledges that a Productivity Commission analysis today is the right thing to do. (Time expired)

Senator LUNDY (Australian Capital Territory—Parliamentary Secretary for Immigration and Citizenship and Parliamentary Secretary to the Prime Minister) (12.51 pm)—It is my great pleasure to rise to speak in the second reading debate on the Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2010. I listened very carefully to Senator Birmingham’s contribution, and I think it is important to highlight some of the fundamental contradictions in the coalition’s position. On the one hand, the opposition claimed that there is a need to separate all matters associated with the National Broadband Network and NBN Co. from the telecommunications structure—to separate the structure of the industry, the regulatory environment, from the matters of substance that are contained in this bill.

This is contradictory. The two are invariably associated because the telecommunications industry structure needs to adjust to accommodate a wholesale-only open-access fibre-to-the-home network—that is, the NBN. It is essential that the competition and consumer safeguards bill accompany the progress of the National Broadband Network policy. To argue for a complete separation of the issues denies that there is an association between the progression of the policy and the build of the National Broadband Network. This legislation is motivated to facilitate the structural adjustment the industry needs to make to sustain this excellent model of an open-access, wholesale-only, independently regulated fibre-to-the-home network.

The argument that we should separate the two issues is just another tactic in the opposition’s attempt to delay consideration of this legislation and the National Broadband Network. In a previous contribution—in relation to, I think, a general business notice of motion—I covered what I thought the political motivation of the opposition was in that regard, and it was not auspicious. I thought it exposed the opposition’s complete lack of vision in relation to the internet, telecommunications and the network for the future.

Another contradiction is their ‘go fast-slow down’ approach. Almost every question
time the government receives questions about how many people have been connected to the National Broadband Network. The question is asked with a pejorative, accusatory tone: ‘How come so few are connected to the National Broadband Network?’ In responding to that, we inform the coalition that far more people than they purport are actually connected. So, in the chamber the coalition is pleased to place pressure on the government for more NBN connections. ‘Why aren’t there more?’ is the implication of their questioning. Yet, in the debate on this bill and their utterances outside of question time, their argument is, ‘We don’t need to go so fast.’ We just heard very clearly from Senator Birmingham, from the Liberal opposition, that we ought not to proceed, we ought to delay—we ought to have a Productivity Commission inquiry before we progress, we ought to have a cost-benefit analysis before we undertake this build.

There is a profound contradiction in what they convey in the public arena of question time and what they convey elsewhere. As I stated recently, local Liberal members are clamouring for the NBN to come to their communities. Yet, in this formal debate, when the rubber hits the road and it is about progressing legislation to facilitate the regulatory environment so that all of these policies can progress, they want to stifle, inhibit, delay, block. There is no reconciling those two positions. I think this exposes the very shallow political opposition to the National Broadband Network and to this legislation, which facilitates the regulatory regime.

The idea that Telstra is very much under duress brings up another contradiction. If what the opposition is saying is true—that this bill somehow facilitates the establishment of a new monopoly—which, quite frankly, ignores the fact that there is independent regulation associated with it, why would Telstra be under duress? We know, colleagues, that Telstra fought for the retention of their monopoly for many years. To imply that they would somehow be under duress to participate in a future monopoly defies belief. The fact is that Telstra and NBN Co. have entered into a practical agreement, which the coalition clearly lauded and encouraged. They criticised Labor for the process not occurring—now that it has occurred, it is suddenly problematic.

I am speaking on this bill today as an ACT senator. I have strong views on, and a strong history in the area of, public policy. I want to make it very clear that my comments relate to my experience. I would like to turn to a little bit of history in the telecommunications debate. Senator Macdonald does not fall into the following category, but some of his colleagues would. This discussion has been going on for a long time. Senator Macdonald would have been participating in the debates about the privatisation of Telstra, the various Estens reports about regional telecommunications services and so forth for a really long time and would have an appreciation—even though, obviously, a different political view—of how hard it is to get the telecommunications regulation and policy right in this country. Some members of the coalition who appear not to be apprised of this history seem to think there is a simple solution. Senator Birmingham’s in his contribution said very clearly, ‘Surely there’s a way that we can just organise this, commission a report and fix the policy so everybody’s happy.’ Well, Senator Birmingham, the coalition government had many years, 13 years, of government in which to do that. Some 14 different Senate inquiries across telecommunications, information and communication technologies, and internet have occurred over those years. Many more reports were commissioned by the former government about the challenge of regional telecommunications services and what was needed to
provide universal, affordable access. And there has been recommendation upon recommendation—some accepted by the previous government and some rejected. None of them fixed the problem.

The only thing that will fix the problem is Labor’s vision and policy for a national broadband network, which is informed in part by a series of successive Senate inquiries into various bills and into the general issue of broadband. One of those inquiries was by the broadband select committee, which I think at one point you were chair of, Senator Macdonald.

Senator Ian Macdonald—Yes; that is true.

Senator LUNDY—Indeed. This broadband select committee took a great deal of evidence which served, in some part, to inform the development of our policy. One of the areas it informed the policy was in the great strength of the fibre-to-the-premises model of a national broadband network. We have learnt, through the evolution of policy, certainly in my time in parliament, that all of these inquiries and reports have informed how difficult it was to get the policy right. So when Labor announced a national broadband network that was open access, fibre to the home—and 93 per cent of that, fibre to the premises—wholesale only and independently regulated, it was the right model for Australia. That model recognised that we needed a network that was future proof. It recognised that the copper network that is currently in place was finite in its capacity.

We heard it described, as I have said many times before, by representatives of Telstra and many of the colleagues in this place, as ‘five minutes to midnight’. We also know, again through many inquiries, that the copper network is riddled with pair gain systems which prohibit the expansion of the ADSL-style high-bandwidth services and that there is a choke point that is being experienced currently in many Australian communities. How that choke point manifests itself is that people who want a broadband-style service like ADSL2+ cannot get it. There is no capacity in the system and they are placed on waiting lists and told repeatedly, by Telstra and other service providers trying to connect those customers, that there is no physical infrastructure available within that network.

Some on the coalition side point to wireless as somehow being a solution, but it is worthwhile placing on the record again—as the minister has, many times—the capacity constraints of the wireless network. It too has finite capacity. The style of that network means that the more people use the wireless network the less bandwidth each person gets because it has to be shared around. We know that wireless has these capacity constraints, and to continually introduce wireless as being somehow analogous or alternative to a fibre-to-the-premise network represents a complete misunderstanding of the physical attributes of these networks.

It is absolutely a statement of fact to say that the science is in on the future-proof nature of fibre-to-the-premise network. Light based or fibre optic technology has the capacity to increase its bandwidth as the technology at either end of that fibre continually improves. We are very pleased to hear the news from the NBN Co. that whereas our policy requires 100 megabits, their network will be able to deliver a gigabit in terms of bandwidth speeds. That is evidence of the future-proof nature of the fibre to the home network.

This legislation, the Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2010, forms a critical part of the landscape because it addresses the issue of what is needed in the competition regime and what is needed to
protect consumer interests. Most of the provisions in this bill, introduced back in 2009, were obstructed by the Senate and we are now still trying to debate this bill. We are seeking the support of the Senate in doing so. The measures in the bill position the telecommunications industry to make a smooth transition to the National Broadband Network. As I said, the changes to the bill reflect the announcement earlier this year of an agreement with NBN Co. on the migration of fixed-line services. So the bill now reflects that up-to-date situation.

These are very important agreements to progress the National Broadband Network. The reintroduction of the bill provides for much of the legislative framework to support the arrangement to deliver the structural reform of the sector. I will just run through some of the features of the structural reform contained in this bill. The structural reform restructures the telecommunications market and promotes greater competition and consumer benefits. These are outstanding issues; they have been outstanding for a long time and they need to be addressed. It seeks to strengthen the telecommunications-specific access regime to provide more certain and quicker outcomes for telecommunications companies. It seeks to streamline the anti-competitive conduct regime by removing procedural impediments that in the past have restricted the effective operation of the regime and it seeks to strengthen the consumer safeguard measures. The bill represents a balance between providing Telstra with sufficient certainty to progress with structural separation while, at the same time, protecting access seekers and consumers in that transition. It sets out a framework for Telstra to seek approval from its shareholders.

All of these issues are important and I think it is worth saying that many of them have existed for a very long time. Those of my colleagues who have been around for a while will remember the endless debates about the regulatory gaming that has occurred in the telecommunications sector and would understand the importance of these adjustments to the competition regime. They would also understand that having a wholesale-only open-access independently regulated National Broadband Network is the ultimate solution to what has been a very fraught sector, whereby Telstra's presence as a residual monopoly within that sector has prevented the kinds of investments that only the government, through the NBN policy, can progress.

We experienced market failure and the minister's very diligent efforts to test the market in responding to the needs of this nation were exemplary and very thorough. It was in response to that market failure that our policy for a national broadband network emerged. I am very proud of that. It was visionary policy that has captured the attention of governments around the world who grapple with similar problems of people clamouring for affordable universal broadband access. The respective telecommunications industries are incapable of providing that on a ubiquitous basis and governments seem to find some constraint in responding to the needs of their populations, usually by virtue of the efforts of the incumbents in the markets to protect their own patch. In Australia, Telstra has shown that it is incapable of making the future-proof style of investments that could have characterised our progress in the digital age through the late nineties and the early part of this decade. As we know, through the policy failures of the former government this did not happen.

In closing, I return to the point of why we need a national broadband network. Senator Birmingham and other coalition senators always return to this fundamental question. It is an interesting characteristic that only now the Leader of the Opposition and his shadow
ministers have raised the question. The characterisation of the debate up until we announced our national broadband network policy was which party could do it better, which party could do it faster and which party could do it most efficiently. The political debate was characterised by whose policy settings were going to get us as a nation there first. The coalition said this was the objective, whether it was Senator Coonan’s contributions as the former Minister for Communications, Information Technology and the Arts or the more recent utterances of the coalition. We want to have as many people as possible on as high a bandwidth as affordable in this country. That would be good for our economy. That would be good for our society.

Why is it only after the announcement of a national broadband network policy that will get us to all of those places that we have recognised we want to be that suddenly the opposition says, ‘We’re not so sure that is where we want to be,’ and starts this contradictory debate that is effectively a tactic in delaying, stifling, inhibiting and ultimately trying to block the progress of the National Broadband Network and its associated telecommunications amendments. It is unfortunate. I think it speaks to the character of the opposition at the moment and I know that there are many people who believe in the National Broadband Network and who want to see it proceed. We have a great opportunity to progress the issue today.

I make it clear that I am speaking as the senator for the Australian Capital Territory, as a member of the Senate who has had a longstanding interest, and not in my executive capacity as a parliamentary secretary. I am contributing to this debate very much as a member of the Senate with an abiding interest in telecommunications policy.

Senator IAN MACDONALD (Queensland) (1.11 pm)—It is always good to hear Senator Lundy in these sorts of debates as I know she has a very longstanding and precise understanding of this area. In fact, as I said jokingly—but only mock jokingly—I think Senator Lundy would have made a far better Minister for Broadband, Communications and the Digital Economy than the current incumbent. I know it embarrasses Senator Lundy to have me say that, but I sincerely believe it because Senator Lundy does actually understand these things and, despite her protestations, I am quite confident that had she been the minister we would not have had the absolute mess before the parliament and in Australia that we have now.

As each day goes by, more and more people are questioning the spending of $43 billion of taxpayers’ money on what many are now calling a white elephant. I continually make the point that had the coalition won the 2007 election a broadband would be operating nationally at very high speeds today—no ifs, no buts, no maybes, no looking eight years down the track and perhaps more waiting for this NBN conglomeration to become effective. It would have been operating today. Had the coalition been able to implement its policy, that national broadband network would have been a mix of copper, HCF, fibre to the node or to the home and wireless. That would have been up and running. People that I represent in Northern and remote Australia would be enjoying the benefits of a very high-speed broadband today, as I speak, yet because of this government’s three or four years of vacillation people in many parts of remote Australia still cannot get a decent mobile telephone system. That is what they would have you spend some of the $43 billion on rather than on what is increasingly being called a white elephant.
I ask senators and I ask the people of Australia: if Senator Conroy’s NBN is as good as he says it is, then why do you need this legislation, the Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2010? Why do you need to threaten Telstra with a shotgun if Senator Conroy’s NBN is so good? If Senator Conroy’s NBN is as good as he says it is, you would think that people would be rushing to it and you would not need any legislation to destroy competition. In fact, if it were as good as Senator Conroy tries to make out, then in Tasmania you would have more than a 50 per cent take-up and you would have people actually paying to go onto the system. I keep mentioning the fact—I am waiting for Senator Conroy or someone on the other side to tell me I have got it wrong here, but no-one ever will—that in Tasmania NBN Co. are giving away their part of the $43 billion investment for free. They are not charging the internet service providers a cent for this network which in Tasmania has already cost $100 million. You would think that if you were getting that $100 million input into good telecommunications in Tasmania for free then more people would be rushing to join up, but they are not. Quite frankly, most of us will never want 100 megabits per second. Those who want to download the latest in movies—certainly something I do not want to do and I suggest very few Australians want to do—will perhaps like the 100 megabits per second. But for normal average use, 12 megabits per second will be more than sufficient for what most Australians will need.

Taking the case of people in Tasmania, they are getting the service for free at the moment. The price to customers, we heard the other day, was from $49.95 up to $89.85, depending on the service they got, but that is about what people now pay for the same service on Telstra’s or Optus’s copper line system. It costs everyone $300 to get the connection box on their house, but so few people were interested in this that NBN Co. said, ‘We’ll put in the $300 box free of charge.’ So not only are NBN Co. not getting any revenue for their $100 million investment but they actually paying out—they are paying people $300 so they get the connection box in the hope that they might then actually connect to the system.

If Senator Conroy’s NBN is so good, why aren’t more people being involved in it? If it is so good, why do you have to force Telstra to shut down their copper network? If it is that good, surely people will line up to join into the fibre-to-the-home network, then we will not have to pay Telstra $11 billion for them to shut down their copper network. That is what we are doing: the taxpayers are paying Telstra $11 billion to shut down their copper network. Telstra, of course, are laughing all the way to the bank—and why wouldn’t they? It would be completely unnecessary if Senator Conroy’s NBN were as good as he makes it out to be.

This bill before the parliament gives the minister power to shut down Telstra’s, and I assume others’, HFC cables if the minister thinks that leaving them operating would give Telstra the potential to compete with the NBN service. If this is as good as Senator Conroy always tells us it is, why is this legislation giving the minister power to shut down the HFC cable network in Australia? If this is so good, why is this draconian legislation needed? This is the sort of legislation that would have had an everyday place in communist Russia—telling companies what they can and cannot do and threatening to take off them part of their business if they do not toe the government line. That is what this bill says.

There are in this bill, I might say, some elements with which the coalition certainly
agrees. The pieces of the legislation that deal with consumer protection are appropriate, we believe. They reinforce the existing consumer protection safeguards in the industry, including the universal service obligation and the customer service guarantee. These changes do place an increased burden on carriers but, nevertheless, we on this side of parliament still support them and we are not going to be moving any amendments in this area. In particular, we believe it is very important for consumer protections to be meticulously upheld, especially in rural, regional and remote Australia where, as we all know, access to reliable communications services is critical. So there are certain elements of the bill which we support. But, as Senator Birmingham indicated when he led the debate today, we will be moving a number of amendments to remove some of the more draconian elements of this bill. I understand that both Senator Fielding and Senator Xenophon will have amendments as well and we are interested to see what they are.

In passing, I recall the debate on Thursday when Senator Xenophon said he was not going to insist upon the cost-benefit analysis because he had been offered a briefing by the government. He obviously had not read the fine print, because he now discovers that that would have required him to have a seven-year confidentiality clause imposed upon him. He could not have talked about his briefing for another seven years. I understand from reading the newspapers that that has moved on a bit. But I also understand that for that reason Senator Xenophon, according to the newspapers—I have not spoken to him myself—is not now going to take the briefing, which makes me wonder why this matter was not referred to the Productivity Commission for proper assessment.

This legislation, in spite of Senator Conroy apparently not knowing this, is all about trying to make the NBN work. It will not work in a commercial way. The leading telecommunications experts have all been to Australia and cannot believe that a government monopoly is going to waste $43 billion of taxpayers’ money on a fast broadband service that private industry could have equally well provided—and businessmen around the country agree. In Australia private industry was well on the way to providing that. Sure, there have been complaints. In the number of communications committee hearings that I have been involved in over the years there has been a litany of complaints about access to Telstra’s network by competing carriers. I accept that in many cases those complaints are accurate and justified. But you do not need a sledgehammer to crack that nut. What you need is decent legislation and clever negotiations between the parties to bring about a result.

This proposal to spend $43 billion to shut down a current network that, for the majority of Australians, is okay, to build a competing network, or duplicating a similar sort of network, to me is just crazy. I am pleased to say, as I mentioned before, that every day that goes by more and more Australians are questioning the sense of this. Sure, we all want fast broadband. But, as I have said a number of times, had the coalition’s plan been adopted, that would have been up and running now. Even the most optimistic estimates of this plan suggest that it will be seven or eight years before it is properly operational.

Why do we need 100 megabits per second? We are told that it makes e-health much better. Sure, e-health can work better if you have 100 megabits per second, but that is available now. In fact, I understand that 100 megabits per second has been available for some time if you are prepared to pay the price for it—and nobody will. But I understand the carriers can provide that if you want to put your money up. I note that in the United States the minimum broadband target
is four megabits per second. As I recall, the coalition’s 2007 proposal provided for 12 megabits per second—more than enough for the average Australian.

If this proposal is so good, why, oh why, oh why will Senator Conroy not allow it to go for a rigorous, independent cost-benefit analysis? If he is that confident, you would think he would be the first one to push it in there so that an independent and well-regarded authority could come out and say: ‘Senator Conroy is absolutely right. This is going to be at a cost which is bearable by the nation and it will provide all of these benefits that will justify that cost.’ It is incomprehensible that Senator Conroy would object to that if what he has said about his NBN proposal is accurate. But the corollary is obviously the case. Even Senator Conroy, nice fellow that he is, knows that all his rhetoric is not accurate. Even Senator Conroy knows that the value for money is not there, in spite of what he says here. If it were there, he would be the first one pushing it into a rigorous, independent cost-benefit analysis.

What Senator Conroy is doing is locking us into what today is the very latest of technology but tomorrow may be old-fashioned. That is one of the concerns that we have with this. Why Telstra are being forced into a position where the minister may be able to shut down their HFC pay television cable network completely escapes me. That sort of draconian, un-Australian approach to any business activity in Australia defies logic. It certainly defies our understanding and defies what we accept as the norm in a democracy like Australia. Those HFC pay television cables, I have to tell you, pass about 30 per cent of Australian homes at the present time and they could easily provide 100 megabits per second if you wanted to pay for it. But, as I say, take a poll. Who needs 100 megabits per second? We are being locked into Senator Conroy’s view of the world, when tomorrow there could be all sorts of new technologies.

That is what was so good about the coalition’s original proposal: it included copper, it included fibre, it included the HFC cables and it included, most importantly, wireless—because the thing people want more than anything today is not necessarily 100 megabits per second but a mobile telecommunications arrangement. As old-fashioned as I am, I take my laptop everywhere and, in fact, with the little stick I shove in the side of the laptop I can actually send messages as I drive between my office and my home or if I am travelling overseas. Of course, with our little mobile phones, we can also send emails wherever we like and get internet access. So what we are all seeking is that mobility, and locking Australia in, at $43 billion, to a fixed-line fibre network is in my view not appropriate.

I return to the matters I raised when I started this contribution. If the system is as good as Senator Conroy says it is, why do we need this legislation? Why do we need the draconian bullying of a major Australian company that is in this bill before the parliament today? If it is as good as Senator Conroy says it is, why is it that in Tasmania, where the service is being given away, at no cost at all, only 50 per cent of the people have even bothered to have a look at the proposal? It does not make sense. The coalition, as I mentioned, will be supporting parts of this bill, but we will be moving amendments to attempt to correct some of its more draconian elements.

Senator CAROL BROWN (Tasmania) (1.31 pm)—I rise to make a contribution on the Telecommunications Legislation Amendment (Competition and Consumer Safe-
guards) Bill 2010. This bill introduces measures that were in the Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2009, which was introduced in the parliament in September 2009. This new bill contains amendments to the original bill. The 2010 bill will make significant amendments to the Telecommunications Act 1997, the Trade Practices Act 1974 and the Telecommunications (Consumer Protection and Service Standards) Act 1999, plus other consequential amendments.

We have before us a substantive regulatory reform package that will deliver a more efficient and effective telecommunications market with appropriate consumer safeguards.

The primary aims of the bill are: to address Telstra’s vertical and horizontal integration by providing stronger separation arrangements for Telstra, including a legislative framework to voluntarily structurally separate by migrating its consumers to the National Broadband Network, as agreed in the financial heads of agreement between Telstra and the NBN Co.; to strengthen the telecommunications-specific access regime to provide more certain and quicker outcomes for telecommunications companies; to streamline the anticompetitive conduct regime by removing procedural impediments that in the past have restricted the effective operation of the telecommunications-specific competition regime; and to strengthen consumer safeguard measures.

The case for telecommunications reform is clear. These amendments provide the opportunity to overcome the vertically integrated, privately owned monopoly that Telstra enjoys in the Australian telecommunications industry. These amendments make fundamental reforms to existing telecommunications regulations in an attempt to rectify the anticompetitive nature of the industry. We need to address the mistakes of the past and establish an effective and efficient regulatory framework for telecommunications. The way forward is a mix of strong measures to open up the sector, alongside appropriate safeguards and incentives for consumers. This bill will reshape regulations for the telecommunications sector and will allow us to deliver better and fairer outcomes for Australian consumers, businesses and the broader economy. These reforms will allow the sector to smoothly transition to the NBN. They will increase competition and they will improve consumer safeguards. I certainly hope that those opposite will vote to give consumers a fair go.

Telstra is one of the most integrated telecommunications companies in the world. It is extremely vertically integrated. Telstra currently owns the only fixed copper-wire network in Australia that connects to almost every premise in Australia, as well as the largest hybrid fibre-coaxial cable and mobile networks, and it has a 50 per cent stake in Australia’s largest television subscription provider, Foxtel. The proposed legislation will help promote greater competition in the industry by requiring Telstra to split its functions through a voluntary separation. The vertical separation will reduce incentives for discrimination against wholesale competitors and will result in increased competition. The legislation will also address Telstra’s horizontal integration across the copper, cable and mobile platforms. Separation allows for the open-access market structure, which we are delivering through the National Broadband Network.

The bill will provide more legislative and regulatory certainty for Telstra and its shareholders as it transitions into a retail company. Through these reforms, it is possible to create a win-win situation for Telstra, its shareholders and Australian consumers and businesses. These legislative changes will deliver much needed benefits for consumers while simultaneously protecting consumer inter-
ests. I know Senator Bushby, who is in the chamber, would be very supportive of any safeguards to support consumer interests, as he took up a case—as many did in my home state of Tasmania—involving Bruny Island, which we unfortunately have not had a good result on yet, under the current regime.

 Senator Bushby interjecting— 

 Senator CAROL BROWN—I will declare a conflict of interest: I have a shack on Bruny Island. But I am sure Senator Bushby would be supportive of consumer safeguards.

 By addressing Telstra’s integration across the fixed-line copper, cable and mobile platforms, and by delivering a structural separation of the company, consumers stand to benefit from the increased competition across the sector. With NBN Co, to be a wholesale-only communications provider with open-access arrangements, the rollout of the NBN is already reshaping the competitive dynamics of the communications sector.

 Senator Conroy has already highlighted the beginnings of benefits to consumers and an increase in competition in my home state of Tasmania with the rollout of the NBN. We have seen introductory offers from internet service providers at prices as low as $30 for 25-meg download speeds. Other companies are offering packs for $90, which include all your broadband and phone calls. The equivalent Telstra package currently offered in Tasmania is around $130. This is clearly a result of the threat of entry of competition from the National Broadband Network. Competition will only increase with the ongoing rollout of the NBN and with the separation of Telstra. As Senator Conroy said when he first announced the proposed changes:

 For years industry has been calling for fundamental and historic microeconomic reform in telecommunications.

 And:

 Today we are delivering this outcome in Australia’s long term national interest.

 This legislation presents an opportunity for Telstra to forge a new identity and will translate as a win-win outcome to be achieved by Telstra, its shareholders and by Australian consumers and businesses. This bill will address the longstanding deficiencies in the regulation of the sector and it will also drive growth, productivity, regional development, social equity and innovation. We will have proper regulation of the wholesale company and we will have proper scrutiny.

 This legislation has been informed by the discussion paper on telecommunications reform which was released on the same day as the announcement of the National Broadband Network in April 2009. The discussion paper on telecommunications reform received a strong response, with 140 submissions received from a wide range of stakeholders. These submissions included all major telecommunications service providers, broadcasters, media companies, state and territory governments, the ACCC, disability and consumer groups, business organisations and unions. Their response was clear. Across all of the submissions, the unanimous feedback was that the telecommunications industry is uncompetitive, it does not assist consumers and it does not assist businesses. That is why we have initiated fundamental reform to the telecommunications industry, to address the high level of vertical integration amongst both Telstra’s wholesale and retail services. And, of course, these changes come alongside the rollout of the NBN—one of the largest infrastructure nation-building projects of our time, a project which will drive Australia’s future productivity and growth.

 We must have the appropriate telecommunications regulation in place to ensure that the NBN is affordable and able to deliver high-quality services to businesses and consumers. The proposed changes to the tele-
communications regulations have been met with a positive response from the Australian Competition and Consumer Commission. Speaking after the announcement of the proposed split of Telstra, Chairman of the ACCC, Graeme Samuel, praised the changes saying the public is best served by having a competitive telecommunications sector. Mr Samuel went on to say:

There are 21 million Australian consumers, about 16 million of them are using some form of telecommunications service and they are the big winners because, at long last, we’re seeing competition quite clearly infused into the telecommunications sector.

This legislation has widespread support across the telecommunications sector. I received a letter earlier this year—as I am sure other members of parliament did—from the Australian Communications Consumer Action Network, the Competitive Carriers Coalition, iiNet, Internode, Macquarie Telecom, Netspace Networks, Primus Telecom, TransACT Communications, Vodafone Hutchison Australia and the Australian Telecommunications Users Group. The letter, which related to the original bill and was co-signed by those 10 major groups, pleads the case for passing the bill with signatories arguing that we need these ‘comprehensive and coherent reforms’ to improve competition and consumer protection in Australia. These groups also emphasise the need to deliver these reforms for consumers in regional Australia. I read from the letter:

Australian consumers deserve and need these reforms, none more so than those in regional Australia. These Australians have been let down repeatedly by policies that have sought to paper over the symptoms of poor competition without addressing the root causes.

Through this legislation, we are bolstering consumer safeguards and protecting consumer access to affordable telecommunications services. The legislation retains and strengthens the universal service obligation. Telstra, as the universal service provider, therefore must ensure all Australians have reasonable access on an equitable basis to standard telephone services including payphones.

The customer service guarantee will be bolstered through minimum performance benchmarks to require telephone companies to meet or exceed the CSG requirement. If the standards are not being met, those companies will incur civil penalties. There will be additional priority assistance requirements for telephone companies. Through enhancing the powers of the Australian Communications and Media Authority, ACMA, to issue infringement notices, we will also have more effective enforcement of our bolstered consumer safeguards. The Senate Environment, Communications and the Arts Legislation Committee report also provided an endorsement of the legislation. The final report concluded:

The committee believes that the bill in its current form provides important and timely reforms to Australia’s telecommunications regulatory regime that will be of benefit to providers and consumers. The committee recommended that the bill should be passed.

We cannot let those opposite deny Australians better broadband and telecommunications services whilst they try to work out where they sit on the issue. Given that a few weeks ago Mr Malcolm Turnbull agreed at the Melbourne communications conference that ‘If vertical integration is the problem, then separation—structural or functional—is the answer’, we must ask how, in spite of these comments, those opposite still will not fully support the legislation that provides for the separation of Telstra. What is the reason for objecting to a bill which breaks down the telecommunications monopoly? Why oppose legislation which finally gives consumers
and businesses a fair go? We need to act now to deliver fundamental reform to the telecommunications industry—reform which will benefit both consumers and businesses in the future. I commend the bill to the Senate.

Senator MINCHIN (South Australia) (1.44 pm)—I rise to speak on the Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2010 as the former shadow minister for communications throughout 2009 when most of these developments took place, and also of course as the last shareholder minister for Telstra and the minister responsible for T3. The first version of this bill appeared when I was the shadow minister and we made clear then our profound concerns about it. This second version really is no better than that first one. We indicated over a year ago that we could support parts 2 and 3 of this bill but that we were fundamentally opposed to part 1, and we still are.

This bill is in many ways a complete con. It is just a clumsy camouflage for the government’s true objective of creating a new government owned telecommunications monopoly in the form of this NBN Co at massive cost to the taxpayer. This is in fact a radical leap into the dark of telecommunications policy to create this new government monopoly and, as a result of another sleazy deal between the Labor Party and the Greens, we now know this company will probably never be privatised. So taxpayers will have billions tied up in this company forever.

This bill proposes to allow the government to use the force of law to break up a great Australian company owned by millions of ordinary Australians in order that this NBN can operate as a government monopoly without any competition, simply to prop up the shaky finances of this company. It really is an admission that this NBN would be completely unviable unless, as this bill proposes, competition law is suspended and Telstra is bought off. So the passage of this, frankly, quite offensive bill would pave the way for the government to use taxpayers’ money to buy off Telstra. What is on the table is an $11 billion bribe to buy Telstra’s agreement to cooperate in the creation of this new government monopoly. The government wants taxpayers to hand over $9 billion in cash to Telstra—and that is presumably on top of the $26 billion that they were going to hand over to this company—to rip up its copper and close down its HFC network, and then give Telstra on top of that a $2 billion gift by relieving it of its universal service obligation.

We learned just last week from the minister’s statement on the NBN that this USO deal that they have cooked up is going to cost taxpayers $100 million in the first two years—and this is on top of the $11 billion—and $100 million every year for at least a further eight years. The government has got itself in a position now where it has got to create yet another new quango—they are calling it USO Co—which, believe it or not, is going to rent copper from Telstra to ensure that the seven per cent of Australians not getting a fibre service under this wonderful NBN can still get a fixed-line service. The minister said:

... USO Co will have responsibility for delivering—among other things—and this is not English; this is the minister—ensuring the continuity and ongoing maintenance of the copper network for premises in the last 7%—in effect, those premises that are not connected to the fibre network;

... USO Co will deliver these responsibilities through contracts, initially with Telstra.
So we are paying Telstra on the one hand to rip out its copper. On the other hand we are going to pay them $100 million a year to keep the copper for the seven per cent of Australians who will not be getting the fibre.

And we all know why this happened. It is a consequence of questions we raised at estimates with Senator Conroy last year, when we said, ‘Minister, how are you going to guarantee that every Australian who currently gets a fixed-line phone service is going to get one under your NBN?’ He clearly did not have a clue as to how that was going to be achieved. The question stunned him. He looked like a rabbit in the spotlight, and now he has come up with this extravaganza that is going to cost taxpayers $100 million a year to keep the copper in the ground for the remaining seven per cent.

The worst thing about this bill, frankly, is its cynical disguise as being virtuous in seeking to break up a great Australian company, Telstra. The government is really only doing this to prop up its $43 billion NBN. This is looming as Australia’s greatest ever white elephant. I place on the record—and I ask anyone to demur—Labor has never before formally advocated the structural separation of Telstra. It has never been a policy of the Labor Party before this bill was dreamed up. Labor created Telstra as a fully integrated telco and, while Labor quite hypocritically opposed privatisation, having sold the Commonwealth Bank and Qantas, at no stage did it advocate breaking up Telstra. Only last year when pressed on this question at Senate estimates, Senator Conroy said he was not an advocate of breaking up Telstra and the coalition quite properly has not been an advocate of breaking up Telstra. The coalition quite deliberately and properly and without criticism from Labor, retained Telstra as a fully integrated telecommunications company.

I remain completely opposed to the structural or functional separation of Telstra by force of law. It is an outrage that this is being perpetrated. The structure of the company is a matter for its millions of shareholders and our government was absolutely right to sell Telstra as a fully integrated telco. We followed sound international practice. We maximised the return to taxpayers to help pay off the $96 billion debt that Labor left us, and we ensured that Australia has a strong, financially viable, major public company able to invest billions of dollars—which it does—in our telecommunications network.

Extensive studies here and overseas make very clear the virtues for consumers and national economies of fully integrated incumbent telecommunications companies and the very considerable risks there are in trying to break them up. Study after study shows the substantial benefits for investment, efficiency and innovation from the existence of fully integrated telcos. That is why most incumbent telcos around the world actually remain fully integrated. As the Productivity Commission noted in a 2005 report on telecommunications, only a few countries have ever proceeded with separation initiatives and, at least in the United States, those structural changes have since been reversed. The Productivity Commission noted that the OECD has made an exception to the general position on vertical separation in relation to network infrastructure—in other words, telecommunications—and the OECD, which was, I must say, quite critical of this NBN proposal concluded that full vertical separation was unlikely to deliver a net benefit to telecommunications markets. That is the position of the OECD. The Productivity Commission in that paper that I am referring to did not support either the vertical or horizontal separation of Telstra, and that is one of the reasons why the coalition and the Labor
Party have not previously supported such separation. The Productivity Commission, in relation to the telecommunications market, said:

... liberalisation has delivered a much more competitive environment. For example, since 1997, the number of carriers has increased from 3 to over 100, with new players significantly eroding Telstra’s market share in the long distance and mobile call markets ...

And, of course, that market share has continued to erode since this report.

One of the world’s leading experts in this field, Eli Noam, Professor of Finance and Economics at Columbia University, published a very significant paper on this subject last year in which he recanted his previous support for separating telecommunications companies. As Professor Noam said:

In the past, I strongly supported divestiture.

But after a detailed study of the actual outcome of divestiture in the United States he concluded that it had comprehensively failed to achieve its objectives. The empirical evidence is in, and it does not work. As he stated:

... structural separation may have made sense in theory, but the numbers do not substantiate the benefits in practice.

Separation is a tool, not a goal. There are other tools to achieve the same legitimate objectives, and they would be simpler and cheaper.

So separation is certainly not the international norm. It is not supported by our leading analyst, the Productivity Commission. I, for one, certainly believe that Australia derives a net benefit from Telstra’s current structure. I strongly oppose this bill to force the break-up of Telstra and to use $11 billion of taxpayers’ money to buy Telstra’s silence simply to prop up this $43 billion outrage.

Frankly, worst of all is that this government is insisting on this parliament passing this radical and extraordinary piece of legislation in the absence of either the business case for this $43 billion extravaganza or a decent cost-benefit analysis of the NBN. This bill simply should not proceed, at least until the business case is made public.

**Senator WORTLEY** (South Australia)

(1.54 pm)—I welcome the opportunity to speak on the Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2010 and, in doing so, I would like to refer for a moment to the present debate surrounding the passage of this legislation in light of the government’s present scrutiny and release, in due course, of the National Broadband Network Company’s business plan. Let us not assume that those opposite are motivated by anything other than political expediency in calling for the immediate release of the plan. They know that, given their long—far too long—occupation of this side of the chamber, that documents of this scale and complexity require careful consideration before entering the public domain. I note the remarks of Mr Windsor from the other place on the ABC’s *Lateline* program. He said:

I think the Opposition’s agenda has been very clear. Tony Abbott made statements earlier today that it was about demolishing the NBN. So, I think any amendments now that they introduce have one aim in mind and that’s to delay rather than assist in terms of scrutiny or transparency.

In their zeal to wreck and destroy, those opposite would have our country lose out on cutting-edge, 21st-century technology, the benefits of which already have been so widely acknowledged. There is widespread acceptance throughout Australia that the federal government’s National Broadband Network is critical infrastructure that needs to be rolled out around Australia. The opposition need to take a good look at themselves and the needs of their constituencies, put aside their determination to demolish and destroy,
and consider what will lead this country forwards rather than, as they seem to prefer, backwards in terms of opportunity, productivity and competitiveness.

I turn to the bill. This piece of legislation will overcome the constraints on reform presently operating due to one entity’s dominance in the telecommunications marketplace. Its aim, simply put, is to strengthen protections for consumers in the telecommunications environment as we move towards the implementation of the NBN. The bill does this in three ways. First, the legislative scheme will result in the structural separation of Telstra so that services to consumers will operate in a new, entirely wholesale arena. Next, the conduct regimes of the Competition and Consumer Act 2010 with regard to anticompetitive behaviours and access will be rationalised to foster competition in the market. Finally, the current consumer protection regulation will be strengthened to facilitate consumers’ transition to the NBN.

This government is entirely committed to the program of reform laid out in the competition and consumer safeguards bill. The reforms we discuss today are reforms that constitute the most wide-reaching overhaul of our telecommunications sector since the introduction of competition in 1997. They are in the interests of consumers and businesses and, therefore, by extension, in the interests of the broader economy. At present Telstra is highly integrated, providing both retail and wholesale services. While it is strong in asset base and resources, owning the fixed line copper network, the most sizable mobile and hybrid fibre-coaxial cable networks and half of Foxtel, Telstra’s level of integration has been recognised as a fetter on competition, with the result that Australia is not keeping pace with other developed economies in this field. This is because Telstra presently has the capability to place its retail concern ahead of the business of its wholesale customers. This has been well and truly recognised by Telstra’s competitors. As an example, the Director of Government and Corporate Affairs for Optus recently said:

We believe that the telco reform bill – including the structural separation of Telstra and greater power for the ACCC to enforce a level playing field in the fixed line market – must be a priority for the new Government.

One could not find a more considered endorsement than that of the Telstra CEO. He was quoted in the Australian on 20 October saying:

On balance we support the passage of the Bill …

We believe the interests of Telstra shareholders would be best served by the Bill being passed this year so that a definitive agreement on our involvement in the NBN can be reached quickly.

The legislative scheme proposes that Telstra migrate its fixed line traffic to the NBN. This would be achieved under a settled regulatory scheme as the network is introduced.

Debate interrupted.

QUESTIONS WITHOUT NOTICE

Broadband

Senator BRANDIS (2.00 pm)—My question is to the Minister for Broadband, Communications and the Digital Economy, Senator Conroy. On what date was the 400-page business plan for the National Broadband Network received by the government?

Senator CONROY—I thank Senator Brandis for his newly acquired interest in this topic. The business plan which we have received was a comprehensive document that examines the whole—

Senator Brandis—What date?

Senator CONROY—So now I am to be interrupted by interjections on how to answer.

The PRESIDENT—Senator Conroy, just ignore the interjections.
Senator Brandis—Mr President, I rise on a point of order. In view of the observation Senator Conroy made, I am only interested in the date. That is the only thing the question is about.

Senator Ludwig—Mr President, on the point of order, which apparently is not really a point of order, it would be helpful if the opposition indicated at the outset what point of order they are actually taking. One could not guess from a restatement or at least a short statement about what Senator Brandis thinks his question now is. From the opposition’s perspective, they are entitled to ask a question and a supplementary question and a further supplementary question but not to use a point of order to rephrase the primary question.

The PRESIDENT—Senator, this is not the time for debate on either side. Question time is a time for questions to be asked and answers to be given and not for interjections to override the questions. Interjections do not help question time in any way whatsoever. The minister has been going for 21 seconds. There are two minutes allocated for answering questions. The minister has a minute and 39 seconds remaining to answer the question.

Senator CONROY—Mr President, thank you for again pointing out that the opposition cannot dictate how a question is answered. You can ask the question and I will—

Senator Brandis—What’s the date?

Senator CONROY—If you stop interjecting and hollering across the chamber, I will get to the answer. The business case is a detailed document that, once again I repeat, reinforces the business case that McKinsey presented. It reinforces that the NBN is financially viable and delivers cheap and affordable broadband to all Australians. That is what the business case—

The PRESIDENT—Senator Conroy, I draw your attention to the question.

Senator CONROY—Mr President, I appreciate that you are not directing me on how to answer the question.

The PRESIDENT—Senator Conroy, you now have 45 seconds remaining to address the question.

Senator CONROY—Thank you. I am talking about the business case, which is what I have been asked about.

Opposition senators interjecting—

Senator CONROY—Those opposite may want to screech long and loud through this two-minute answer, but the bottom line about the business case is that it delivers an affordable broadband for all Australians.

The PRESIDENT—Senator Conroy, I draw your attention to the question.

Senator CONROY—Thank you, Mr President. I appreciate your advice.

Senator Brandis—Mr President, I rise on a point of order. The minister, in addressing you in that dismissive and contemptuous way—‘Mr President, I appreciate your advice’—has shown total disregard for your authority in the chair. If ever a president in command of this chamber were to sit a senator down, you ought to do that to this minister now.

The PRESIDENT—Senator Brandis, that is not a point of order. Senator Conroy, you have 14 seconds remaining to answer the question.

Senator CONROY—Thank you, Mr President. I appreciate you are refusing to be bullied by those opposite.

The PRESIDENT—Senator Conroy, I do not ask you to comment.

Senator CONROY—You are refusing to be bullied by the continual campaign of those opposite. Let me be clear: the business plan was delivered two weeks ago, which I think makes it 8 November. (Time expired)
Honourable senators interjecting—

The PRESIDENT—Debating this across the chamber is not helpful during question time. The time to debate is at the end of question time.

Senator BRANDIS—Mr President, I ask a supplementary question. How could it possibly take a competent government 14 days to read a 400-page document so as to identify and, where relevant, redact confidential information?

Senator CONROY—That question is based on an entirely false premise. This is a detailed document that contains—

Senator Brandis—It is only 400 pages long.

Senator CONROY—I know it involves a business plan—something that you, as a lawyer, are not familiar with, Senator Brandis—and this is a detailed business plan which, once again I repeat, confirms that the NBN delivers a financially viable business case with cheap and affordable broadband for all Australians. Eighty-four per cent of people in Willunga have signed up to receive the NBN; 87 per cent in Armidale. Those opposite—

Senator Abetz—How does this relate?

Senator CONROY—Because the question was based on a completely false premise. When you want to stand up and make an argument in the question—(Time expired)

Senator BRANDIS—Mr President, I ask a further supplementary question. Given that it is beyond the competency of this minister to read a document at a rate of more than 29 pages a day, isn’t it the case that the government has already identified the confidential information in the document and that it is hiding behind this excuse to prevent parliamentary scrutiny and to protect a minister who is fast losing the confidence of the public and the markets?

Senator CONROY—I did not actually hear a question there, but I am happy to respond. Yet again, those opposite have got to explain to the people of Australia, because Senator Barnaby Joyce let the cat out of the bag last week. For all the pompousness from those opposite, Senator Joyce let the cat out of the bag when he said, ‘It’s not about the details; it’s about destroying the NBN. That will mean we can destroy the government.’ That is what Senator Joyce said last week. The cant and the hypocrisy which some of those opposite, particularly the questioners, like to display regularly in question time has been exposed—out of the mouth of Senator Joyce. You are not interested in transparency—

Honourable senators interjecting—

The PRESIDENT—Senator Conroy, resume your seat for a moment. I will ask you to continue when there is silence on both sides.

Senator CONROY—Senator Joyce has exposed the fraud of this question, the fraud of those opposite. They are interested in destroying the NBN.

Broadband

Senator CAMERON (2.08 pm)—My question is to the Minister for Finance and Deregulation, Senator Wong. Can the minister inform the Senate about the productivity benefits of rolling out high-speed broadband across the country? How will improvements in broadband speeds and broadband penetration help to grow the Australian economy?

Senator WONG—I am very pleased to answer that question from Senator Cameron and to remind the chamber yet again that this is a reform not only for the communications sector but also for the Australian economy. It is an economic reform, and that is how we should regard it. We know that we need to improve broadband in this country. We know that in 2007 our broadband speeds lagged

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behind some 26 OECD countries. We have been ranked in the bottom half in terms of broadband penetration, and we know we have a problem. This is a government that has committed to fix it.

The National Broadband Network is vital to our national economic success. It will create a competitive telecommunications sector that will benefit all Australian households and businesses, regardless of where they are located. It will help drive long-term productivity growth in our economy, and Australians from all over the country, from all walks of life, will have access to affordable, fast broadband.

A report by the United Nations, to which my colleague Senator Conroy has previously referred, has estimated that for every 10 per cent increase in broadband penetration we can expect an average 1.3 per cent additional GDP growth. These are the types of productivity benefits that are put at risk by an opposition that remains determined to wreck this reform and to wreck any reform.

Senator Joyce was very open about this over the last few days. He was not interested in discussing the benefits for regional Australia, he was not interested in discussing the economic benefits. What he made clear was the political agenda that lies behind the opposition’s approach, and that is nothing except wrecking this reform for their own political gain and putting their political gain ahead of the national interest. (Time expired)

Senator CAMERON—Mr President, I ask a supplementary question. Minister, in light of these benefits, can you update the Senate on the importance to consumers of implementing these reforms to the telecommunications sector? What are the risks to consumers from delay?

Senator WONG—As I said, this is an overdue reform that will boost productivity growth in our economy. It is also a reform that will deliver better services to Australian consumers and Australian businesses. It is of particular benefit—and I would have thought the National Party would have considered this—to Australians in rural and regional Australia, who, despite their geographic isolation, will be able to use broadband quickly and efficiently to connect to the rest of Australia and to the world.

I am asked about some of the risks to consumers. We know that delays in implementing this reform will mean high prices and less competition. We know that this will hold back innovative improvements to the way in which Australians can do business, but unfortunately we also know that the opposition has only one priority. As Senator Joyce reminded us:

It is the reason the independents backed them … If we pull this card out, if this card falls, the whole show comes down. (Time expired)

Senator CAMERON—Mr President, I ask a further supplementary question. Can the minister outline to the Senate any alternative approaches to the issue of reform of Australia’s broadband network?

Senator WONG—We on this side of the chamber understand that it is not acceptable to continue to have broadband speeds that lag behind our OECD counterparts and our competitors. We understand that it is not acceptable to have broadband that is not acceptable to all of Australia—our regions as well as our cities. Paradoxically, those on the other side seem to be quite happy to accept the status quo when it comes to broadband. That is because they know only one approach when it comes to this reform and any reform, and that is to wreck and block. They are nothing but wreckers.

What is interesting about what Senator Joyce said is that he told the Australian people what the real agenda is here: the political
position of the opposition. It is about their perceived political gain. They are not interested in policy. Senator Joyce is not interested in broadband for the regions. He is not interested in that. He is not interested in broadband for regional Australia.

DISTINGUISHED VISITORS

The PRESIDENT—Order! I acknowledge in the public gallery the presence of former Senator Linda Kirk. Welcome, and we trust you are enjoying question time.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Broadband

Senator BIRMINGHAM (2.14 pm)—My question is to the person we are told is the Minister for Broadband, Communications and the Digital Economy, Senator Conroy.

Senator Chris Evans—Mr President, I rise on a point of order. I drew this to your attention last week: increasingly the opposition are using their questions not to state a question but to denigrate the minister to whom the question is directed. Given that I know how much the opposition are concerned about parliamentary procedures and proper behaviour during question time, I ask you to draw attention to their continued abuse of question time and the phrasing of questions.

The PRESIDENT—I remind all senators that the correct title should be used in the case of all honourable people in this place and the other.

Senator BIRMINGHAM—My question is to the Minister for Broadband, Communications and the Digital Economy, Senator Conroy. Have the confidential aspects of the NBN business plan already been identified in order to facilitate briefings offered to cross-bench members and senators? Was it not essential to identify the confidential components of the business plan so as to draft the confidentiality agreements that were presented to the crossbenchers for signing?

Senator CONROY—I commiserate with Senator Birmingham for not receiving an invitation or being offered an opportunity to sign the confidentiality agreement. The question is like the chicken and the egg. If you tell me what is not in it, I might be able to tell you what is in it—by process of elimination. You are now asking me to identify by omission what could or could not have been there. It was a confidential briefing and, in the same way that those who signed the agreement are keeping the confidences, I intend to keep the confidences. The letter that Mr Quigley sent, which was publicly released last week, made it quite clear that there is a variety of information, both directly and that can be unpacked from the numbers within the NBN business case, and therefore—

Opposition senators interjecting—

The PRESIDENT—Order! If you want to debate this, the time for it is at the end of question time. Senator Conroy, continue.

Senator CONROY—There is a range of information that can be derived from the raw numbers. But, as Mr Quigley also made clear, there are ongoing contracts being negotiated by NBN Co. such that, if numbers were made public, companies could increase their prices and make higher bids against the NBN. If we complied with the idiocy of those opposite, taxpayers would pay more for the rollout of the NBN. Just a blanket, ‘Release it!’, but—

Government senators interjecting—

The PRESIDENT—I remind senators that constant interjections are completely disorderly. I ask you to refrain. Debate across the chamber does not help question time at all—on both sides.
Senator CONROY—Mr Quigley also made clear that there were some key decisions that were—(Time expired)

Senator BIRMINGHAM—Mr President, I ask a supplementary question. Given NBN Co. and/or the government must be in full knowledge of which parts of the business plan are confidential or commercially sensitive, why will the government not at least release those aspects of the plan that are not identified as confidential or commercially sensitive? Why not give Australians the parts that can be ‘unpacked’?

Senator CONROY—Just to finish my last answer: Mr Quigley also identified that there were a number of key decisions yet to be taken. These numbers reflect the view of NBN Co. but they are subject to some final decisions yet to be made by cabinet, because the ACCC is only making its final report on 30 November and those recommendations from the ACCC will have a material impact on the business case that has been presented. So let us be clear: Mr Quigley has made it absolutely clear that there is key information in the document that will potentially change if a different recommendation—(Time expired)

Senator BIRMINGHAM—Mr President, I ask a further supplementary question. Far from doing everything it can to be transparent and open about the NBN, isn’t this failure to release even non-confidential aspects of the business plan a further demonstration that the government is trying to release as little information as possible as slowly as possible about this project? Why is the minister doing everything he can to keep the Australian public in the dark? Is it any wonder the public and the markets are losing confidence in the minister?

Senator CONROY—Unfortunately for Senator Birmingham, Senator Joyce has let the cat out of the bag. Senator Joyce came into the chamber and said, ‘We are not interested in the details of this; we just want to destroy the NBN, because if we destroy the NBN we destroy the government.’ He just could not help himself. Those opposite are not remotely interested in the business case and they are not remotely interested in the ACCC recommendations for the government; they are determined to do nothing more than demolish, oppose and wreck the National Broadband Network. They are on the public record not once but—when it was Senator Joyce’s contribution—twice, saying—(Time expired)

Broadband

Senator HURLEY (2.21 pm)—My question is to the Minister for Innovation, Industry, Science and Research, Senator Carr. Can the minister explain to the Senate how the National Broadband Network will boost Australia’s innovation performance, and what is the government doing to connect Australian universities and businesses to the global innovation system?

Senator CARR—I thank Senator Hurley for her question. Occasionally you see during election campaigns some truly enlightening matters brought to public attention. I recall watching The 7.30 Report where the Leader of the Opposition indicated to his audience, ‘Again, if you’re going to get me into a technical argument, I’m going to lose it, Kerry, because I’m not a tech head.’ That was the response of the Leader of the Opposition when it came to the question of a technical understanding of the NBN. He went on to say at the people’s forum at Rooty Hill that ‘for me broadband basically is about being able to send an email, receive an email’. Further on he said ‘it’s about downloading movies, downloading songs, all that kind of thing’. But, of course, Australian business knows that the NBN is about so much more than that. If you take, for instance, the situa-
tion within the automotive industry: you have Toyota, you have Holden and you have Ford, all of which have very significant design and engineering capabilities in this country. They send very complex and very detailed digital files all around the world, and without the NBN they are at a distinct commercial and competitive disadvantage.

The NBN will allow us to be amongst the world’s best. It will allow us to maintain our competitive advantage and ensure that we keep high-skilled, high-wage jobs in Australia. But it is not just in private companies. If you look at what is happening with Australian universities and the Australian research community, you get to understand how huge an advantage the NBN will be to ensure that we are able to maintain the prosperity of this nation. We will be able to get Australian researchers and businesses to go global and to be competitive globally. That is why the Labor government is building that infrastructure as part of the $250 million Regional Backbone Blackspots Program, and we are putting in a crucial fibre-optic link from Perth to Geraldton to allow that to occur. That is also why we are employing businesses and building local skills. (Time expired)

Senator HURLEY—Mr President, I ask a supplementary question. Can the minister point to any major research and development investment opportunities which would have been jeopardised without NBN infrastructure?

Senator Brandis—Are you auditioning to be the next minister?

Senator Abetz—They all are.

The PRESIDENT—When the interjections cease, we will proceed. The minister has the call.

Senator CARR—The National Broadband Network will boost our prospects for hosting major international scientific projects. Take, for instance, the SKA—the Square Kilometre Array—which is one of the biggest scientific projects of our time. The Square Kilometre Array is a $2.5 billion radio telescope which will expand our astronomers’ potential for discovery by some 10,000 times. Australia has been able to put a joint bid together with New Zealand to host the telescope in Western Australia, and we expect a decision by 2012. To secure this major investment, it is absolutely critical that our ICT infrastructure can support the massive data transport required for the SKA. That is why the Labor government is building that infrastructure as part of the $250 million Regional Backbone Blackspots Program, and we are putting in a crucial fibre-optic link from Perth to Geraldton to allow that to occur. That is also why we are employing businesses and building local skills. (Time expired)

Senator HURLEY—Mr President, I ask a further supplementary question. Expanding on the previous answer, can the minister also explain the importance of the NBN for collaborative research in cutting-edge industries?

Senator CARR—Last month I joined the Premier of Victoria, Mr John Brumby, and the Prime Minister to launch IBM’s new research and development laboratory at the University of Melbourne. Glen Boreham, IBM’s general manager in Australia and New Zealand, said:

IBM invests more in research and development than any other like company in the world—$6 billion last year ... and we spread those investment dollars across the planet—wherever we believe there are the best skills, opportunities and local support.

He wanted to thank the federal government, he said, because its: … innovation agenda and digital economy strategy are creating an environment which is attracting investments such as the one we have announced today.

Mr Boreham specifically noted that the NBN will underpin our ability to deliver solutions
that reach out to regional and remote parts of the country’. (Time expired)

Broadband

Senator BERNARDI (2.27 pm)—My question is to the Minister for Communications, Broadband and the Digital Economy, Senator Conroy. Did cabinet meet this morning and did the minister brief the cabinet on the contents of the NBN business plan? Will the minister now release the business plan commensurate with his statements to the Senate last week that he wanted to brief the cabinet before publicly releasing it?

Senator CONROY—I do not think it has ever been the practice of any minister or leader of the government to reveal when cabinet meets or, more importantly, what the agenda of cabinet is. So it is quite an unusual request from Senator Bernardi to—

Senator Brandis—Mr President, a point of order: the minister told the Senate last week that the matter would be considered by cabinet today, so the basis upon which he is declining to answer the question is at variance with what he has already told the Senate.

The PRESIDENT—That is not a point of order; it is an issue for debate at the end of question time, should you wish to put that debating point. Senator Conroy is still only 29 seconds into the two minutes allocated for the answer. Senator Conroy has the call.

Senator CONROY—As I was saying, it is not the practice—and it certainly will not be the practice—to reveal when cabinet is going to take place and, more importantly, what the agenda of cabinet is. Those opposite know that. They are seeking merely to create ongoing colour and movement because after 14 years those opposite have a broadband plan that consists of three dot points. That is all they have got, Mr President. There is no substance from those on the other side of the chamber—not in policy terms, and in political terms Senator Joyce has let the cat out of the bag. They are not interested in the business plan. They are not interested in a cost-benefit analysis; they are interested in pulling out, as he said, the card from the pack to try and make the pack collapse. They are interested in no substantive policy at all. They should be exposed for their fraudulent efforts both now and in the past in trying to pretend they have got a broadband plan. You have got a three-dot-point broadband plan. That is all they have got, Mr President. (Time expired)

Senator BERNARDI—Mr President, I ask a supplementary question. Given the minister’s statements last week, why has the minister now changed his story and is now relying on a letter from Mr Quigley to withhold release of the NBN business plan? Did neither the minister nor the Prime Minister realise the business plan contained, to quote Mr Quigley, ‘highly sensitive and commercial-in-confidence information’ when they were promising to release it last week? Is this not just another excuse for blocking release?

Senator CONROY—Those opposite continue to try and build the case that the business case is flawed; the business case is a problem; the business case includes rising prices. Mr Quigley’s letter on the public record makes it quite clear: the business plan reinforces that it is financially viable. On the question of prices, Mr Quigley is very straightforward: the business plan is based on decreasing prices. It is stated there in black and white. Either Mr Quigley is misleading the Australian public—

Government senators interjecting—

The PRESIDENT—Senator Conroy, resume your seat. It might assist if we had silence once again.

Senator CONROY—or those opposite are once again just clutching any furphy they
can toss into the public arena where it is all removed—(Time expired)

Senator BERNARDI—Mr President, I ask a further supplementary question. Can the minister give a clear answer as to what will be released and when? Further, will the Australian public ever get to see a full and unredacted business plan for Labor’s $43 billion NBN experiment in which every single Australian has been enlisted as a compulsory shareholder or will 22 million Australians have to sign a seven-year confidentiality agreement before they get to know how their money is being spent?

Senator CONROY—That question once again clearly demonstrates that those opposite are not interested in any substance in this debate. When they were in government and Telstra was a wholly owned government enterprise, there was never a suggestion that an unredacted business plan would be released. Australia Post was under the control of those opposite for 11½ long years, and not once was there ever a suggestion that Australia Post needed to or should produce an unredacted business plan. The National Broadband Network will comply with all of the rules of the GBE requirements legislated, and that is what they will do. They will turn up and answer all of the mindless—(Time expired)

Woodside Energy Ltd

Senator BOB BROWN (2.33 pm)—My question is to the Minister representing the Minister for Resources and Energy and it is regarding the gas hub development of Woodside at James Price Point in the Kimberley. Is it true that the retention lease given by the Commonwealth and the state of Western Australia was conditional primarily on the plant being at James Price Point unless a site could be found where the development could go ahead quicker on a commercially viable basis?

Senator SHERRY—Thank you, Senator Brown, for the question. Perhaps before I go to some of the detail of Senator Brown’s questions, by way of background, Browse Basin gas reserves is a gas field—

Senator Bob Brown—Mr President, on a point of order—yes, it is a very early intervention here: there is a minute and 43 seconds left, and I did not ask for background on this particular matter: I asked for an answer to the question about the conditions of the lease. I want the minister to answer that question.

Senator Chris Evans—Mr President, on the point of order: the minister made it clear to Senator Brown that he would come to the specifics of the question but he sought to put it in the context in which he chose to frame the answer. I think it is quite reasonable for him to do that and, given that he had only gone about 17 seconds, it is totally inappropriate for people to take points of order when the minister has indicated quite clearly he intended to answer the question.

The PRESIDENT—Two minutes are allocated for the answering of questions in question time. Only 17 seconds have elapsed, as was rightfully pointed out. The minister has a minute and 43 seconds remaining to answer the question. I draw the minister’s attention to the question.

Senator SHERRY—In the interests of transparency, which I know Senator Brown is particularly keen on, I would have thought—and I know not every senator and certainly not the many hundreds of thousands who watch the broadcast of our Senate program would know what Senator Brown is asking about, so I think it is useful to at least give some indication of what this—

Opposition senators interjecting—

Senator SHERRY—I was referring to the Oprah Winfrey Show, not Senate question time. Sorry, I got mixed up.
The PRESIDENT—Senator Sherry, come back to the question. Ignore the interjections.

Senator SHERRY—That is what I was intending to do because I am trying to assist senators and I am trying to assist the many people who watch Senate question time. I could give them some very basic information and answer Senator Brown’s question. We would have got there a lot earlier—we would have got there 33 seconds ago—if it had not been for the point of order 17 seconds into my question.

Senator Ronaldson—Seventy seconds.

Senator SHERRY—Seventeen. I am attempting to press on under the most difficult circumstances and I have not even started the brief on the background.

Senator Bob Brown—Mr President, I rise on a point of order. I asked a direct question about the condition of the retention lease. It is very clear that the minister is fudging and trying to avoid answering that question. I ask you to direct him to answer the question as put.

The PRESIDENT—Senator Brown, unfortunately people quite wrongly interjected during your question. I drew the minister’s attention to the question. I also drew attention to the fact that the minister at that stage had only been going for 17 seconds. The minister should address the question and should ignore interjections, which are completely disorderly, during question time.

Senator SHERRY—Now I have been going for 93 seconds and I still have not got to the very basis of the question. The Browse Basin gas reserves are a very significant gas deposit in a world-class gas province. The gas will be processed and brought onshore from the field at James Price Point. My advice, Senator Brown, is that on 9 February 2010 the Browse joint venture partners, Woodside, BP, BHP—(Time expired)

Senator BOB BROWN—Mr President, I ask a supplementary question. We can all see what is happening here, so I will put this question as a consequence. Will the minister confirm that Martin Ferguson, the Minister for Resources and Energy, directed the companies involved to have this project at James Price Point unless they could show that an earlier commercially viable option was available, knowing that that would not be the case?

Senator SHERRY—As I was saying—and I have described the joint venture partners—on 9 February the partners agreed the selection of James Price Point as the location to process the gas from the venture’s Browse Basin gas fields subject to necessary approvals and consents. As to your claim—there is a claim in your question—I certainly do not have any brief before me. As the representative minister, I will take the details of your question on notice, refer it to my colleague and obtain a response to your claims. I would point out that there is a dispute at the present time between the Western Australian—(Time expired)

Senator BOB BROWN—Mr President, I ask a further supplementary question. The lease answers the question: the minister did direct the proponents to have this project at James Price Point unless they could show a commercially viable alternative, which was not to be the case. I ask the minister: what is the point of the Commonwealth undertaking to protect national environmental and social values, including those of the Indigenous people of this country, if it so directs—(Time expired)

Senator SHERRY—Thank you, Senator Brown. I have not read the lease myself, Senator Brown.

Senator Bob Brown—You don’t know, do you?
Senator SHERRY—You asked me about the lease; I just point out as the representational minister that I think that is reasonable. My ministerial colleague may have read the lease, but I certainly have not read the lease, Senator Brown, so I am not aware of its contents. I will take on notice whether your interpretation—your view—of the meaning of the lease is correct. I do not know, but I will take that on notice for you.

Senator Bob Brown—It’s true; you don’t know.

Senator SHERRY—I was trying, in a fairly expeditious time, in responding to your initial question, to be quite frank and give, I thought, a reasonable amount of detail amid a constant barrage of interruptions and points of order, which made it very difficult for me to answer the question in two minutes. There is a legal dispute; I am conscious of that. I have taken it on notice to provide advice—(Time expired)

Workplace Relations

Senator CASH (2.42 pm)—My question is to the Minister representing the Minister for the Status of Women, Senator Wong. I refer to the heads of agreement signed in 2009 by the now Prime Minister, Julia Gillard, and the Australian Services Union, in which Labor committed to support the ASU’s test case on pay equity for community sector employees. Following Labor’s recent backflip on support for the ASU test case, isn’t Labor’s abandonment of low-paid women workers in the community sector yet another example of Labor making promises to win an election and then betraying the very people it promised?

Senator WONG—I thank the senator for her question—the first one I have had as minister representing in this area. I say this as a starting point: it is quite clear from that question that the senator has not read the submission. I invite her to do so because I understand it is public. But I have to say that it is an ironic question to come from a member of the Liberal Party, who implemented Work Choices legislation, which had in its sights low-paid workers, particularly women. We know from the studies that were done, the anecdotal evidence and the evidence on the ground that amongst the people most vulnerable under Work Choices were women workers in this country.

The hypocrisy of that question really is quite extraordinary, from one of the great barrackers of Work Choices over there, sitting on the back bench. When was the last time, Senator, you argued for pay equity? When was the last time anyone on that side of the chamber argued for pay equity? Which was the government that put through amendments that ensured that provisions were in the legislation that enabled this case to be given?

Senator, you come in here asking these questions not out of any interest for the wages and conditions of women workers, not out of any interest for pay equity, because we know what your history is as a party, but because you want to make a political point. This is a government that remains committed to pay equity. We understand that it is not only just and fair but it is also about increasing women’s participation. We understand that Australian women currently earn 83c for every dollar earned by men—(Time expired)

Senator CASH—Mr President, I ask a supplementary question. Community sector groups have stated that they believe that the Labor government is walking away from its election commitments to women. Does the government understand—

Government senators interjecting—

Senator CRUSHER—Comrade Cash!

Senator CASH—I have been called way worse.
The PRESIDENT—Senator Sterle and others on my right!

Senator Cameron—Comrade Cash!

Senator CASH—I don’t have an apartment in Kingston, that’s all I can say. And I’m not a chardonnay socialist.

Government senators interjecting—Opposition senators interjecting—The PRESIDENT—Resume your seat, Senator Cash. I will give you the call. You are entitled to be heard in silence. On my right I need to hear the question!

Senator CASH—Does the government understand why so many low-paid women workers who supported Labor at the recent election believe that Labor has deceived and betrayed them?

Senator WONG—I again invite the senator to read the submission. It makes it very clear that the government is committed to pay equity in Australia. It acknowledges the vital service that the social and community services sector delivers to many of our society’s most vulnerable Australians; it recognises that much of the work performed in the sector is undervalued; and it remains committed to working through the funding implications of any increase in wages awarded in partnership with the affected unions, employers in the sector and states and territories. That is a very sensible position for the government to take.

It is wrong for the senator to characterise the intent of the submission differently. I understand she has not read it, but I again say—

Government senators interjecting—

Senator Cash—It’s on my desk. I rise on a point of order in relation to misrepresentation. The senator does not—

The PRESIDENT—Senator Cash, if you claim to be misrepresented you are entitled to clear that up, but the normal time is at the end of taking note. I understand that point, but there is no point of order.

Senator WONG—if I am wrong in assuming she has not read it then if she has read it she has not understood it.

Opposition senators interjecting—

Senator WONG—I am sorry, if Senator Cash has not read it, then she clearly has not understood it. (Time expired)

Senator CASH—Mr President, I ask a further supplementary question. Given the government’s betrayal of low-paid women workers, isn’t it true that Labor’s continual claims—

Government senators interjecting—

The PRESIDENT—On my right! I need to be able to hear the question—on both sides! The time to debate the issue is at the end of question time!

Senator CASH—Given the government’s betrayal of low-paid women workers, isn’t it true that Labor’s continual claims that it alone is the party that looks after the workers is just more Labor rhetoric and Labor duplicity?

Senator WONG—the betrayal of low-paid workers, the betrayal of women workers, was the passage through this Senate of Work Choices, stripping away many of the safeguards, stripping away the wages and conditions which had been hard fought for by many workers and the labour movement for many years. We know that this senator and a number of others on that side are amongst the champions advocating a return to Work Choices. So don’t come in here and try and pretend you care about working people when your party implemented the most antiworker legislation in this country has ever seen. There are people, including the good senator sitting behind you, Senator Back, from your own state, who are also ad-
vocating a return to many of the worst aspects of Work Choices. We know in this chamber who has a track record of standing up for workers’ rights, and it is not you.

Senator Cameron interjecting—

The PRESIDENT—Senator Cameron! I am waiting to call someone on your side.

Broadband

Senator BILYK (2.51 pm)—My question is to the Minister for Small Business, Senator Sherry. Can the minister outline to the Senate how the National Broadband Network will benefit—

Opposition senators interjecting—

The PRESIDENT—I understand people are a little bit excited today—

Senator Colbeck interjecting—

The PRESIDENT—but if we can just curtail the excitement, Senator Colbeck, for a little while, we can end up getting through question time.

Senator BILYK—As I was saying, can the minister outline to the Senate how the National Broadband Network will benefit small businesses, particularly those in regional and rural Australia? What is the potential of the small-business community—particularly in regional areas—to find new, innovative ways of doing business more efficiently and effectively by using the NBN?

Senator SHERRY—I thank my colleague from Tasmania. There was a wild cheer that went up from the opposition benches when the question was posed. It reminds me—

Senator Abetz—It wasn’t for you, Nick.

Senator SHERRY—No it was certainly not for me, but it was reflective of the attitude of business in Tasmania to the NBN, because there is no doubt, if you look at the results from the federal election, that a large part of the reason for the relative success of Labor vis-a-vis the Liberal Party in Tasmania was business support for the NBN. The National Party does not exist in Tasmania, but that is another quite long and diverting story I could get to at another time. There is no doubt that the NBN is critical for—

Opposition senators interjecting—

The PRESIDENT—Senator Sherry, address the chair. Ignore the interjections.

Senator SHERRY—I am trying to. The NBN is vital for small business, and nowhere is this more true than in regional Australia because it reduces the barriers put up by the tyranny of distance that business, particularly in regional Australia, has to overcome. Regional businesses can adopt teleworking. They can attract new customers using content-rich websites. They can use web conferencing. It allows small business to access online services, including staff training, the latest news, research and account payment. So it has a vast range of applications which overcome the tyranny of distance. The government is prioritising the rollout of the NBN in regional Australia.

I notice Senator Joyce is not paying any attention. It is typical of the National Party. The rollout of the NBN in regional Australia, particularly in a state like my own, Tasmania, helps small business to unlock new opportunities, to compete in overseas markets—(Time expired)

Senator BILYK—Mr President, I ask a supplementary question. I thank the minister for that answer. Can the minister also inform the Senate of how the government is helping small business owners go online and engage in the digital economy?

Senator SHERRY—Thank you, and, yes, I will, but I just want to refer to an article written by the chief executive of the Council of Small Business of Australia, Mr Peter Strong. He said that internet sales had increased 18 per cent in the past year.
Senator Ian Macdonald—It was before NBN had even started.

Senator SHERRY—I want to give another example of the benefits to business from embracing the internet. This is the potential, the power, Senator Macdonald, of the NBN, the power of the internet, which you simply do not appreciate and understand. This is the power of the internet and the power of the NBN in overcoming these disadvantages that business and small business, particularly in regional Australia, are faced with.

Senator Ian Macdonald interjecting—

Senator SHERRY—Senator Macdonald—through you, Mr President—should go and have a look at the website for Shoes of Prey. I do not mind giving a free ad to this company. They have been promoting, over YouTube, their business. (Time expired)

Honourable senators interjecting—

The PRESIDENT—When we have some silence we will proceed.

Senator Cameron interjecting—

The PRESIDENT—Having these discussions across the chamber does not assist the conduct of question time.

Senator BILYK—Mr President, I ask a further supplementary question. Is the minister aware of any alternative policies to the Gillard government’s world-leading NBN? Do these alternative policies pose risks to Australia’s long-term prosperity?

Senator SHERRY—The alternative policy presented by the Liberal-National Party—dare I say it, the doormats down there—

Senator Abetz—Are you referring to the Greens?

Senator SHERRY—I do not want to be too provocative, but the doormats down there, in particular, claim to represent regional Australia—

Senator Abetz—You’re the doormats to them.

Opposition senators interjecting—

The PRESIDENT—Senator Sherry, ignore the interjections.

Senator SHERRY—I was not referring to the Greens, Senator Abetz; I was referring to the National Party. You would think that the National Party could recognise the advantages that the NBN and the internet provide for business, particularly small business, in regional Australia. But the approach of the opposition, the Liberal-National party, can be summed up as just wrecking and opposing. They had almost 12 long years in government. I think they had 11 plans, Senator Conroy; I think it was 11 or 12 plans in 12 years.

An honourable senator interjecting—18!

Senator SHERRY—Eighteen! Sorry—18; I stand corrected. In almost 12 years, they failed to deliver the NBN, and they have nothing to deliver now. (Time expired)

Goods and Services Tax

Senator CORMANN (2.58 pm)—My question is to the Minister for Finance and Deregulation, Senator Wong, in her capacity as representing the Treasurer. I refer the minister to the government’s dismissive response last Thursday to an order of the Senate which ordered the production of any advice about the requirement that changes to the GST had to be agreed to unanimously by all parties to those arrangements. Isn’t it the case that the requirement for unanimous agreement is explicit in both the original 1999 GST deal and the 2008 replacement agreement negotiated with all states and territories by this government?

Senator WONG—I thank the senator for the question. I do recall writing to the Senate on behalf of the Treasurer in relation to this
issue and setting out what I thought at the time was quite a substantive answer. I know you asked, in particular, for details of legal advice. I think the Treasurer, through me, indicated why that was problematic but gave a response in relation to the substantive issue. I have to say that I think you are asking me to give you precisely what the Treasurer indicated was not possible: legal advice in relation to the agreement. I do not have the letter which was presented to the Senate to hand, but I would refer you to that letter and if there is any further information in relation to the question I will come back to you.

Senator CORMANN—Mr President, I ask a supplementary question. Why is the government ignoring clear Treasury advice contained in the brief to the incoming government that changing the GST arrangements to take about $50 billion in revenue off the states requires unanimous agreement?

Senator WONG—I am not in a position to agree with every aspect of that question. I have responded on behalf of the Treasurer to the issue you raised in the letter that I have described. In relation to the incoming government briefs—and, from memory, we have traversed quite a bit of this in estimates with both Treasury and Finance—the departments released the incoming government briefs in quite a transparent and accountable way. There were a range of issues in them which comprised advice to government, briefs to government, but not necessarily government decisions. These briefs were not released under your government.

Senator CORMANN—Mr President, I ask a further supplementary question. Why is the government pressing ahead with legislation to take GST revenue away from the states and territories before any of them have signed on the dotted line to hand over any of their GST revenue? Doesn’t this rushed approach demonstrate that this is just another grab for more cash by a government that is addicted to more and more spending and not health reforms?

Senator WONG—Now I understand the issue more clearly: this is about Senator Cormann trying to explain why the opposition are yet again determined to wreck a critical reform for the country’s future. The reality is that health costs in this country are continuing to rise. The current estimates are that, by around 2045, health costs for each of the states will exceed their own source revenue. This is a critical issue for the nation’s future and you have no answer other than to wreck. On health reform—and the Minister Representing the Minister for Health and Ageing could articulate this in more detail—my recollection is that a COAG agreement, an intergovernmental agreement, is being negotiated. But the reality is—

Senator Cormann—Mr President, on a point of order: the minister has just indicated that another minister—

Senator Abetz interjecting—

The PRESIDENT—Senator Abetz, if I could just listen to Senator Cormann and not you as well, it would make it a little bit easier for me.

Senator Cormann—The point of order is about which minister is responsible. Minister Wong has just indicated that another minister might be responsible. My question was about federal-state financial relations and taking GST revenue away from the states—it was not about health issues—so Minister Wong is the minister responsible in this chamber.

The PRESIDENT—Senator Cormann, that is a debating point which you are entitled to take up at the end of question time in taking note of answers.

Senator WONG—The point I was making is that health reform is critical to the future of this nation, and your mindless opposi-
tion to everything is an economic— *(Time expired)*  

Senator Chris Evans—Mr President, I ask that further questions be placed on the Notice Paper.

**QUESTIONS WITHOUT NOTICE:**  
**TAKE NOTE OF ANSWERS**  
**Broadband**  
Senator BIRMINGHAM (South Australia) (3.03 pm)—I move:

That the Senate take note of the answers given by the Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity (Senator Conroy) to questions without notice asked by the opposition today relating to the National Broadband Network business plan.

I note that the opposition were the only people asking Senator Conroy any questions today. We asked Senator Conroy three very clear, focused questions relating to the NBN business plan. On the other side of the chamber, today was the ‘ABC question time’, the ‘anyone but Conroy question time’. We saw minister after minister after minister asking questions about the NBN but not one of those questions was directed towards the actual Minister for Broadband, Communications and the Digital Economy. In their desperation to try to build some sort of case to support their NBN, to try and justify why they are keeping its business plan secret from the Australian people, the government are turning to every other minister now because they know that Minister Conroy is not able to sustain the argument in this place, he is not able to actually build the case in the public arena, as to why this is $43 billion well spent, as to why this money should be tipped into this network without any cost-benefit analysis and without this parliament having the right, before voting on this critical legislation, to actually see the business plan that has been delivered to the government.

We are seeing a desperate government applying ever more desperate excuses for why they are covering their tracks on the NBN business plan. We know that the government have the document; we know that they got the 400-page document two weeks ago. The problem is that they keep tripping themselves up on their own stories. Back at Senate estimates Senator Conroy suggested that the document would never be released. But then two weeks ago when he received it, he said it would be released. And then last week the Prime Minister, rather unhelpfully for Senator Conroy, put a time line on it and said it would be released in December. Since then Senator Conroy has attempted to rewrite it, saying cabinet needs to ‘put a fine toothcomb through it’. Well, we all know what the fine toothcomb of this government looks like; it leaves nits and all sorts of un-niceties behind when it has been through any type of program, as we have seen quite clearly with home insulation, Green Loans, pink batts, Building the Education Revolution—you name it, their fine toothcomb is not worth its weight in anything.

So we had a commitment that the NBN business plan would be released after cabinet had considered it. But then, because that commitment did not wash, last Friday the minister quietly dropped a letter from the NBN Co. CEO, Mr Quigley, to a couple of the newspapers. In that letter, Mr Quigley tried to mount a different argument, about the ‘commercially sensitive aspects’ of the NBN. Then, the minister attempted to offer briefings on the detail of the NBN to the crossbench senators in exchange for signing up to a confidentiality pact—a tightly drafted, legally drawn up confidentiality document. Initially, that pact was to require the crossbenchers to sew their lips together on the NBN for seven years. When that did not work, they were going to have to be quiet for three years. When that did not work, it
was changed to two weeks. The cross-benchers were going to be gagged for some time, as long as the government could get its legislation considered.

Thankfully, this was exposed. The exposure of this deal points to the fact that the government and NBN Co. have already gone over this business plan. They have already worked out just what the confidential aspects are. They have already established just what is commercially sensitive. They already know what will and will not be released. The only thing they are doing is buying time. They are stalling to try to get their legislation through this parliament this week without revealing the underpinning assumptions—the take-up rate, prices et cetera—the business case or any other detail of the NBN.

It is just not good enough. We saw again today Senator Conroy desperately inventing new phrases and words to try to weave his way around the government’s failure to give to the parliament the information it requires to do the job that every legislator in this place should be able to do—to consider legislation in a fully informed way. This is a government that seems determined to hide the facts. Senator Conroy is a minister who clearly has lost the confidence of his own side, who have stopped asking him questions on his own portfolio. We should see this document as soon as possible.

Senator CROSSIN (Northern Territory) (3.09 pm)—I rise in response to the coalition’s take note motion. I am disappointed, though, Senator Birmingham, that you did not rise to take note of Senator Wong’s answer to Senator Cash’s question—how disappointing. Of course, I can take note of Senator Wong’s answer to Michaelia Cash’s question.

The DEPUTY PRESIDENT—Sorry, but you cannot, Senator Crossin.

Senator CROSSIN—What a shame; it is a pity—

The DEPUTY PRESIDENT—Order! Senator Crossin, the motion that was moved was to take note of the answers given by Senator Conroy. You will confine your remarks to answers given by Senator Conroy.

Senator CROSSIN—It is a pity, I observe, that the motion moved by Senator Birmingham did not relate to all of the answers from our senators today. There were some answers that the opposition would not want to talk about.

One thing that this side of the chamber is absolutely convinced of is that Senator Conroy is doing an outstanding job in relation to the National Broadband Network. It is a policy that we released during the election and that is extremely popular around the country. When I look at the contribution from the other side, the coalition, it is really about: ‘It wasn’t our idea—we didn’t think of it first—so we’re going to do everything we can possibly do to undermine it and wreck it.’ We have seen the comments from Senator Barnaby Joyce, blatantly admitting that his role was to pull the rug out from under this as a way of bringing the government down. Everywhere you turn, you see an opposition who simply cannot accept that this is one of the most popular policy positions that a government has ever taken in this country.

It is widely accepted in the community that our current broadband services are deficient—we are not up with the rest or the best of the world—that they require significant improvement. We have a state-of-the-art policy to be rolled out, and the other side, quite frankly, just do not like it because they did not think of it first, it was not their idea, they are not innovative or creative enough to come up with this sort of solution. This solution is going to put Australia into the next century, and fast, as we get better access to
broadband than we have ever had in this country.

We know that the NBN is a critical piece of infrastructure. It is an expensive piece of infrastructure. It will take a number of years to bed down. But we also know that in Tasmania it is hugely popular. It is successful. The Casuarina area in the Northern Territory is one of the next areas that will be rolled out, and people up there are incredibly excited about this. They are tired of having to rely on dial-up access. They want fast broadband. Industries in the Northern Territory, as we heard Senator Carr say today, are relying on this to be innovative and creative—to be world best and world first.

We have all of these excuses coming out of the opposition. We have Malcolm Turnbull’s suggestion to set up a joint select committee, and, of course, ‘Send it all off to the Productivity Commission.’ None of this is washing out there. None of this is having any effect on people who are wildly excited about this idea and just want the government to get on with it, without the opposition putting roadblocks in the way. And now we have the business plan suggestion.

We have heard Senator Conroy’s explanation: the ACCC is providing some comments to the government about the business plan, cabinet will re-look at those comments and in due course those areas of the business plan that can be released—that are not commercially sensitive and will not damage the business relationship that undermines the NBN—will be made public. The Prime Minister has given that commitment. But for some reason the opposition think that the government can bypass all of the legitimate channels, the checks and balances, and release any document they have a request for, instantly and publicly. This is just to satisfy their political ineptitude—at the end of the day, they did not think of this policy. They did not come up with this creative idea. This is the opposition’s third attempt to undermine the work this government is doing, after having been in government for 12 years—the people opposite me sat in government for 12 years and had 17 plans and did not achieve any of this at all. The best they could do was to sell of Telstra, without the necessary checks and balances in place. (Time expired)

Senator BERNARDI (South Australia) (3.15 pm) — If ever we needed further evidence that the government is just waving whilst they are drowning under their inordinate hopelessness, we have just heard it from Senator Crossin, who for the first minute of her contribution to this debate wanted to talk about everything else—until she was most appropriately pulled up by you, Mr Deputy President. Senator Crossin wanted to divert attention from the huge failings of this government and the failings of Senator Conroy; she did not want his National Broadband Network being discussed in this chamber appropriately. It is outrageous.

Let me cast my mind back. The NBN has come about because of an earlier failing. The government in its previous incarnation under Mr Rudd, who they betrayed so mercilessly, did not receive the appropriate number of proper tenders for their previous broadband network. So what did Senator Conroy do? Senator Conroy could not get an audience with his holiness Kevin Rudd so he had to jump on a plane and fly for hours and hours to cook up a $43 billion taxpayer spend on a national broadband network. There was no business plan; there was no case made; there was no cost-benefit analysis. There still has been no cost-benefit analysis. Apparently a business plan has been done, but only after the objectives and policy had been released and announced. That does not mean that the plan will be good, worthwhile or in the public interest. It is not going to stack up under
the cost-benefit analysis test. We know that because the government will not have it.

In my previous role in the financial markets I came across an old phrase: ‘When the tide goes out you can always tell who has been swimming naked.’ Let me tell you: the tide is going out on this NBN proposal and on Minister Conroy. The sight is not a pretty one, because Senator Conroy is trying to hide his inadequacies with a range of obfuscations, misleading statements and all sorts of excuses about why he will not provide the details. Last week, as the tide was going out on Senator Conroy he said, ‘I want cabinet to consider the business plan before I release it next week.’ Today he said that he is not in the process of releasing cabinet agendas and discussions. He has come up with yet another excuse not to release the business plan: Mr Quigley.

One might excuse each of these things if they could be taken in isolation. One could say, ‘Well, there’s a plausibility about this,’ but when the excuses are taken cumulatively and when you look at the track record of this government—including that minister and other ministers—you see that something is fishy. There are dead fish on the ocean floor where the tide has disappeared and Senator Conroy is standing exposed with his awful inadequacies for everyone to see.

Let us be very clear about this. There is a $43 billion spend involved in a massive infrastructure project but this government are not able to tell us what the benefits will be. They are not able to ascertain what the permanent savings will be. I asked Senator Conroy about that last week; he could not give us a list. It is of such sensitivity that the government wants to keep talking in general terms about the national broadband network. People do want fast broadband—there is no doubt about that; the coalition had an excellent plan to provide it at a reasonable cost—but those on the other side of the chamber will not ask Senator Conroy about the detail. Senator Crossin wanted to talk about anything but Senator Conroy’s lacklustre contribution. People have been asking other ministers—like Minister Sherry, Minister Wong and Minister Carr—about the national broadband network.

Let us talk about innovation, which Senator Crossin briefly referred to. Innovation, in the eyes of this government, is extraordinary; it is where you give $30 million to a car manufacturer to build a car they were already going to build and which they were only going to sell a few thousand of—the Hybrid Camry, for example. The minister responsible for that, I remember, had a policy of sending text messages up into outer space. I wonder how that has gone? That has gone the way of Kevin Rudd, I guess.

We have $43 billion worth of taxpayer money that has been funnelled into a program that we do not have much detail about. And this government are hiding away from that. If they have nothing to hide, if it all stacks up, they should release it and open it to the full scrutiny of the parliament. They should let people gaze upon it and make their judgments at will—let them defend it in the public arena rather than just through rhetoric and insinuation and trying to intimidate people into it. There are many questions that need to be answered and at the very least Senator Conroy should stand accountable for them.

Senator HUTCHINS (New South Wales) (3.19 pm)—It is always pleasurable follow Senator Bernardi because it is interesting to listen to him. He actually tends to believe what he says; he is not going on some debating point that he has been given 10 minutes before he speaks. A lot of the coalition senators are given a few little debating points to go on. They gesticulate a lot and confect a
little indignation—but not Senator Bernardi; Senator Bernardi firmly believes it. I do not say that Senator Bernardi is correct—in fact, I would question a number of the conclusions that he has come to today—but he is one of the few on that side who show some passion on some of the issues that have been debated in this Senate over the past year or so. He is not like some of the actors and actresses that we have seen parade before us time and time again.

This government is about the big picture. There are a number of areas where we are in stark contrast with the coalition. This is not only on the NBN; it is on infrastructure spending and on the mineral resources rent tax—three big differences of ideological opinion between this side of the chamber and that side. That is a good thing for Australian politics. This is not Tweedledum and Tweedledee; we do not believe what they believe and vice versa.

As has been outlined today in the answers to questions—not only by the minister responsible, Senator Conroy, but by other ministers as well: Wong, Carr, Sherry—there are benefits of going down this particular track. Each minister outlined what it is going to mean for the economy of this country. Each minister outlined what it will mean for the productivity of this country and what benefits there will be for this country.

Prior to the 2007 election, in what I think was the seat of Calare a public meeting was held with the then shadow minister, Senator Conroy, our Labor candidate, Bob Debus, and me. We held it in the middle of winter in Bathurst. If anybody has been out in the central west of New South Wales in winter, it is very, very cold—probably like any part of country and regional Australia. On this night we wanted to discuss our communications policy, our NBN plan. To my amazement, on that freezing cold night we had 400 people turn up at seven o’clock. It was so cold that we had to get the plane out very quickly because the ice was starting to make us think that we would not be able to leave. Four hundred people attended that meeting and 400 people from that district wanted to know how quickly they could get access to the internet. And why did they want to know that? They were not young men and women who seemed to be addicted to Twitter or Facebook. These were business men and women from small business through to the medical areas that wanted to know what the incoming Labor government would do to make them more efficient, more productive, more connected to their customer base and more connected to consumers. Four hundred people turned up and they wanted us to have this plan go ahead—not to have the delays that are being advocated by the coalition. Those men and women in that one country town in western New South Wales wanted us to go ahead with our plan. We have explained it up hill and down dale.

The fact is that the coalition does not like it. I cannot help that. We have been upfront everywhere we can, except for commercial-in-confidence matters. We have said what we are going to do. Everybody knows what we are going to do, because we have the big picture, unlike what the coalition has been consumed with for most of its political history. If it has a big plan, if it has a big picture—whether it is standard railway gauges or the Snowy Mountains scheme—where is the coalition? It is always looking for the small picture. It does not have the big picture. It does not have the broad canvas for the Australian nation.

Senator RYAN (Victoria) (3.24 pm)—In the previous contribution on the motion to take note of answers given at question time, Senator Hutchins tried to talk about the government having a big picture. The only big picture this government has is the big picture
of the debt it is going to bequeath future Australians. The coalition is quite proud to stand between this government and the reckless abuse of taxpayer funds of present and future Australians. This government has come up with excuse after excuse to hide from scrutiny. I remember when a few billion dollars was a lot of money and would have been subjected to rigorous public analysis and debate, but this government tries to do everything it can to hide $43 billion of public funds from any meaningful debate in the community or in this place. It does not want a detailed analysis undertaken of the costs and the benefits of this reckless and outrageous project. It shows that, as this government flounders around, having lost its way, it is in desperate need of a purpose. It thinks it has found that purpose in the NBN. But, while this government has lost its way and is looking for a map, a map is no use unless you know where you want to go. This government does not know where it wants to take Australia and it has grasped the National Broadband Network as an excuse for an agenda because it does not have a bigger plan for Australia.

Let us consider the ludicrous situation this government currently finds itself in. It said it would not release the business plan and then it said it would. But it will only release the business plan in a redacted form after this parliament has voted on legislation that will commence the spending of $43 billion of taxpayers’ money and drastically increase Australia’s debt. It says there will be no Productivity Commission cost-benefit analysis. We undertake them for much smaller programs. It has been undertaken for the car industry, it has been undertaken for the textile, clothing and footwear industry and it has been undertaken on private and public health systems. The Productivity Commission undertakes detailed studies on a range of sectors of the Australian economy. What do we have today after the secret deal with the Greens? We have a government that says, ‘We won’t have a Productivity Commission cost-benefit analysis to test whether or not this is a worthwhile spend of taxpayers funds, but we will have one after we have built it, after we have spent the money, to determine whether it should be privatised.’ So the commitment from this government to ensure that the National Broadband Network would not remain in government hands has now been thrown out the window in yet another compromise with the Greens, who are running this government’s agenda.

Senator Conroy is playing Twister, for those of you who remember the game. The contortions of the government’s inconsistent positions are apparent as they seem to flick the Twister wheel on a daily basis in an attempt to stall, obfuscate and delay scrutiny in the vain hope that this parliament will pass the legislation that they desire. Let us consider the details. While we cannot have the cost-benefit analysis of the $43 billion government owned entity, the government backflip on the commitment to ensure that the National Broadband Network does not remain in government hands. We are supposed to believe that the government owned monopoly—which, in reality, will now never be privatised—will improve customer service and access. The truth is that Australians, particularly regional Australians, remember the record of government owned businesses and they know this is not something to aspire to. Just like the telecom of old, the National Broadband Network remaining in government hands will lead to union featherbedding, higher costs for consumers, poor service and delays and massive losses for taxpayers.

Another farcical element of this government’s plan is the decommissioning and tearing up of functioning telecommunications networks in Australia: the copper network
and the HFC network. There is no justification whatever to decommission those other than to force people onto the government monopoly provider—that is, the NBN. It embeds cross-subsidies that every Australian consumer will pay and they will not know the cost of this. The government expects us to believe that costs will not go up as people are forced onto the National Broadband Network, as the government legislation forces the decommissioning of fully depreciated HFC and copper networks—even though they are suitable for a great number of Australians. The Minister for Broadband, Communications and the Digital Economy today in answer to questions asked of him by the opposition—rather than, as we have noted, by the government—said that the business plan is dependent upon reducing costs to consumers. Senator Conroy and the Gillard government: release it to the Senate today so that this Senate can have a fully informed debate on the costs that you are imposing on future taxpayers.

Question agreed to.

NOTICES
Presentation

Senator Siewert to move on the next day of sitting:
That the Senate:
(a) notes that:
(i) overwork is a significant problem for many Australian workers,
(ii) research by the Australia Institute has shown that the typical full-time employee works 70 minutes of unpaid overtime a day, which equates to six and a half standard working weeks a year, effectively meaning that Australian workers are ‘donating’ more than their annual leave entitlement back to their employers in the form of unpaid overtime,
(iii) excessive working hours can have negative consequences for physical and mental health, for relationships with loved ones, and for the broader community, and
(iv) to focus attention on the ongoing problem of work/life balance, Wednesday, 24 November is national Go Home on Time Day, an initiative of the Australia Institute that is supported by beyondblue, VicHealth, the Australian Health Promotion Association, the Public Health Association of Australia, and many other organisations; and
(b) acknowledges the positive and simple message behind Go Home on Time Day, and encourages employees and employers to take part on 24 November.

Senator Cormann to move on the next day of sitting:
That the Senate—
(a) notes that:
(i) the Government has refused to provide the information requested by the Senate in relation to advice to Government about the requirement for unanimous agreement from all parties to change the GST arrangements,
(ii) the Government did not justify its refusal by pointing to a recognised public interest ground and by explaining any harm to the public interest from releasing that information,
(iii) both the 1999 Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations (GST Agreement) as well as the Intergovernmental Agreement on Federal Financial Relations in 2008 require unanimous agreement from all parties to make any changes to GST arrangements,
(iv) there is no unanimous agreement to change the GST arrangements, and
(v) in its Incoming Government Brief, Treasury advised the Government that Western Australia has indicated that it
is not prepared to agree to proposed amendments to the IGA notwithstanding that they preserve the current arrangements for Western Australia' and that 'as changes can only be made to the IGA by unanimous agreement of all parties, alternative approaches may need to be considered to give effect to the financing arrangements for other jurisdictions';

(b) orders again that there be laid on the table by 5 pm on Thursday, 25 November 2010, any advice (including legal advice and advice from the Solicitor-General or the Australian Government Solicitor) to the Department of the Prime Minister and Cabinet or the Department of the Treasury, or advice from these departments to their respective Ministers, concerning the need for unanimous agreement to vary GST arrangements;

(c) notes the agreements between the Government and other parties and independents to refer disputes about public interest disclosures to the Information Commissioner, who will arbitrate on the release of documents; and

(d) orders that, if the Government does not produce the information required by this order within the specified timeframe, there be laid on the table by 15 December 2010, a report on the matter by the Information Commissioner, including a review of the adequacy of the grounds specified by the Government for its refusal to produce the information and, if applicable his arbitration on the release of the information.

Senator Bob Brown to move on the next day of sitting:

That the following matter be referred to the Economics References Committee for inquiry and report by the last sitting day in March 2011:

The Reserve Bank of Australia's subsidiaries, Note Printing Australia and Security, with particular reference to:

(a) allegations of payments to overseas agents into offshore tax havens and corruption in securing note printing contracts and what the Reserve Bank of Australia, Austrade and the Australian Government knew about the alleged behaviour; and

(b) action which may be taken to prevent improper dealings occurring again.

Senator Barnett to move on the next day of sitting:

That the following matter be referred to the Legal and Constitutional Affairs References Committee for inquiry and report by 31 March 2011:

The Australian Law Reform Commission (ALRC), with particular reference to:

(a) its role, governance arrangements and statutory responsibilities;

(b) the adequacy of its staffing and resources to meet its objectives;

(c) best practice examples of like organisations interstate and overseas;

(d) the appropriate allocation of functions between the ALRC and other statutory agencies, in particular the Australian Human Rights Commission; and

(e) other related matters.

Senator Bob Brown to move on the next day of sitting:


Senator Siewert to move on the next day of sitting:

That the Environment Protection and Biodiversity Conservation Amendment (Prohibition of Support for Whaling) Bill 2010 be referred to the Environment and Communications References Committee for inquiry and report by the end of the Autumn sittings 2011.

Senator Birmingham to move on the next day of sitting:

That the following bill be introduced: A Bill for an Act to require the preparation and publication of a business case and a cost benefit analysis of the proposed National Broadband Network,

Senators Fisher and Ludlam to move on the next day of sitting:

That the following matters be referred to the Environment and Communications References Committee for inquiry and report:

(a) the cost of establishing and operating the National Broadband Network (NBN) and the impacts of the project on Government finances, and the NBN business model;
(b) the impact on competition in the telecommunications market;
(c) alternate or emerging telecommunications technologies and the degree to which the NBN will be ‘future proof’;
(d) any practical issues likely to arise during construction of the NBN, including workforce, property access and property connection issues and aerial versus underground construction;
(e) experience gained at and principles/lessons extracted from current release sites, including costs, pricing, performance, take-up and timeframes;
(f) documents, information and advice provided to the Government, but not made public;
(g) the public cost and benefit of providing a free service to low income households;
(h) estimated environmental impacts and benefits of the NBN, including expected increases in e-waste;
(i) any Government role in supporting end-use applications of the NBN; and
(j) other matters relevant to the rollout of the NBN, including relevant overseas experience.

Senator Crossin to move on the next day of sitting:

That the Legal and Constitutional Affairs Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 25 November 2010, from 4 pm, to take evidence for the committee’s inquiry into the provisions of the Human Rights (Parliamentary Scrutiny) Bill 2010 and a related bill.

Senator Ludlam to move on the next day of sitting:

That the Senate—

(a) notes that:
(i) 25 November is designated by the United Nations as International Day for the Elimination of Violence Against Women, and that the white ribbon is the symbol for this day,
(ii) around Australia on 25 November, thousands of men and women will be wearing a white ribbon to show their support for this cause and taking an oath never to commit, excuse or remain silent about violence against women, and
(iii) White Ribbon Day aims to build cultural change around the issue of violence against women through education and by promoting a culture of non-violence and respect, particularly among men and boys;

(b) recognises that:
(i) violence against women remains the most widespread human rights abuse in the world – one in three Australian women has experienced violence, and one in five Australian women will experience sexual assault,
(ii) violence against women occurs in many forms, including domestic violence, general assault, homicide, femicide, rape and sexual assault, homophobic violence, genital mutilation, enforced prostitution, motherhood and abortion and elder abuse, and
(iii) violence against women and their children was estimated to cost the Australian economy approximately $13.6 billion in 2008-09 and, without a reduction in current rates, will cost the economy an estimated $15.6 billion by 2021-22; and

(c) commits itself to:
(i) supporting the White Ribbon Day campaign,
(ii) the elimination of violence against women, and
(iii) a zero tolerance approach to all violence in our communities.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry) (3.30 pm)—I give notice that, on the next day of sitting, I shall move:

That the provisions of paragraphs (5) to (8) of standing order 111 not apply to various bills, as set out in the list circulated in the chamber, allowing them to be considered during this period of sittings.

I table statements of reasons justifying the need for these bills to be considered during these sittings and seek leave to have the statements incorporated in Hansard.

Leave granted.

The statements read as follows—

FAMILY LAW AMENDMENT (VALIDATION OF CERTAIN PARENTING ORDERS AND OTHER MEASURES) BILL 2010

Purpose of the Bill

The purpose of the bill is to retrospectively validate parenting orders affected by the High Court’s decision in MRR v GR [2010] HCA 4. The judgment casts doubt on the validity of certain parenting orders purportedly made under the Family Law Act 1975 without consideration about the reasonable practicability of care arrangements. Many of these orders were made by consent.

The bill attaches the same rights and liabilities to affected orders as would have resulted if the court had made a specific finding that the child spending equal time or substantial and significant time with each of their parents was reasonably practicable. Those rights and liabilities are to be treated as though they are and always have been exercisable and enforceable in the same manner as if the order were validly made.

The bill also includes a minor policy refinement to provide that where all parties consent to a parenting order, the court may but does not have to consider all of the issues required in a contested case. This will reduce court time and improve court efficiency. The best interest of the child would remain the paramount consideration.

Reasons for Urgency

This bill would provide certainty for separated parents and children whose arrangements are affected by the High Court’s decision, and would prevent further litigation. On 13 August 2010 the Australian Journal of Family Law published an article by Professors Richard Chisholm AM and Patrick Parkinson AM which discusses the legal issues arising from the High Court’s decision. Media attention may generate high levels of uncertainty for many Australian families.

HEALTH INSURANCE AMENDMENT (PATHOLOGY REQUESTS) BILL 2010

Purpose of the Bill

To improve patient choice by amending legislative restrictions relating to pathology request forms. Under the Health Insurance Act 1973, a Medicare benefit is not payable for a pathology service unless the service is rendered pursuant to a written request from the patient’s treating practitioner. A Medicare benefit is generally not payable unless the patient attends the pathology provider named on the request form. This restriction would be removed, allowing patients to take a request form to any pathology provider of their choice.

Reasons for Urgency

The Bill gives effect to a 2009-10 Budget measure which was announced to commence from 1 July 2010. Passage in the Spring sittings is neces-
necessary for timely implementation of the new arrangements.

If the Bill is not passed in the Spring sittings, implementation will be delayed. Increased patient choice is intended to encourage pathology providers to compete on price and convenience for patients, and if the Bill is not passed in the Spring sittings these benefits will be delayed.

HIGHER EDUCATION LEGISLATION AMENDMENT (STUDENT SERVICES AND AMENITIES) BILL 2010

Purpose of the Bill
The bill provides the legislative framework for higher education providers to charge a student services and amenities fee and for eligible students, if requested, to access Services and Amenities HELP (SA-HELP) to borrow money from the Australian Government to pay their student services and amenities fee through an income contingent loan.

Reasons for Urgency
The Government announced on 3 November 2008 a plan to restore student services and amenities, representation and advocacy across the higher education sector. The bill provided that higher education providers may choose to charge a compulsory student services and amenities fee, capped at a maximum of $250 per annum (indexed) from 1 July 2009.

Due to delays in the passage of the bill through the previous Parliament the implementation date was amended to 1 July 2010 and now needs to be further amended to 1 January 2011.

The bill will honour the Government’s commitment to ensure that higher education students have access to amenities and support services to address the impact of voluntary student unionism. The bill will ensure that all students are provided with information on, and access to, important health, welfare and financial services and provide independent and democratic student representation and advocacy.

The Government will provide access to a new element of the Higher Education Loan Program, SA-HELP, enabling eligible students, if they choose, to take out a loan for the payment of the student services fee. It is intended that higher education providers would not be able to charge the student services fee if they do not also provide access to SA-HELP.

In order to have the fee and loan in place by 1 January 2011, higher education providers require upgrades to their IT systems, including for the implementation of electronic forms for access to SA-HELP and administration of the new fee. New information pamphlets and Commonwealth assistance forms must be developed and printed with sufficient time for distribution prior to the commencement of the fee and loan. The loan information and associated forms require the passage of the bill before legal authority.

Furthermore, a further delay in the passage of the bill would result in insufficient time to authorise the additional data elements to implement the required data collection for the Higher Education Information Management System and associated loan forms for the administration of the student fee and SA-HELP.

TAX LAWS AMENDMENT (RESEARCH AND DEVELOPMENT) BILL 2010

INCOME TAX RATES AMENDMENT (RESEARCH AND DEVELOPMENT) BILL 2010

Purpose of the Bill
Measures in the bill replace the current Research and Development (R&D) tax concession with a new R&D tax incentive that provides an increase in support to small/medium companies on a more timely basis and ensure that support is better targeted.

Reasons for Urgency
The bill establishes an entirely new scheme for delivering support for R&D conducted in Australia that will (retrospectively) commence on 1 July 2010. The new R&D tax incentive will be the Government’s primary means of supporting the innovation efforts of Australian businesses. In order for businesses to plan their R&D activities for 2010-11 onwards, they need access to guidance material from the scheme administrators. Such guidance material cannot be issued until the scheme’s enabling legislation comes into effect.
It is therefore important that the bill receives passage in the 2010 Spring sittings.

TAX LAWS AMENDMENT (CONFIDENTIALITY OF TAXPAYER INFORMATION) BILL 2010

Purpose of the Bill

The bill:

introduces a new secrecy regime to standardise the tax secrecy laws; and

allows new disclosures to facilitate Treasury costings, law enforcement activities and compliance activities carried out by the Fair Work Ombudsman.

Reasons for Urgency

The bill enables the Australian Taxation Office (ATO) to disclose:

de-identified taxpayer information to Treasury for the costing of policy proposals, resulting in an improvement in costings;

taxpayer information to the Commonwealth Director of Public Prosecutions to assist with obtaining proceeds of crime orders as part of a broader initiative to tackle organised crime; and

information to the recently established Fair Work Ombudsman to ensure compliance with the Australia’s workplace laws.

The delay in the passage of the Bill since its introduction on 19 November 2009 has created uncertainty for the ATO, numerous government departments and law enforcement agencies.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry) (3.30 pm)—I give notice that, on the next day of sitting, I shall move:

That:

(a) the provisions of paragraphs (5) to (8) of standing order 111 not apply to the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Budget and Other Measures) Bill 2010, allowing it to be considered during this period of sittings; and

(b) the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Budget and Other Measures) Bill 2010 may be proceeded with before the Legal and Constitutional Affairs References Committee reports on the provisions of Schedule 4.

I table a statement of reasons justifying the need for this bill to be considered during these sittings and seek leave to have the statement incorporated in Hansard.

Leave granted.

The statement read as follows—

Purpose of the Bill

The Bill would amend the special disability trust provisions in the social security and veterans’ entitlements legislation to widen the appeal of the provisions, primarily to parents of people with severe disability. The Bill would introduce an ongoing requirement for residence in Australia for disability support pension, bringing the pension into line with other workforce age payments, and extend family tax benefit eligibility to families with children aged 16 to 24 in certain full-time study overseas. It would also schedule further parcels of land in the Northern Territory as Aboriginal land, provide for guidelines that would apply to the Indigenous Land Corporation when it performs its functions to support native title settlement, and address two minor anomalies arising from the pension reform legislation enacted in 2009

Reason for Urgency

Both the special disability trusts measure from the 2010 Budget and the disability support pension measure have been widely publicised to commence on 1 January 2011. If the legislation does not pass in the 2010 Spring sittings, uncertainty and possible financial disadvantage may result for potentially significant numbers of customers who may have altered their personal arrangements in anticipation of the changes.

Senator Ian Macdonald to move on the next day of sitting:

That the Senate—

(a) notes that:

(i) Exercise Hamel was conducted by the Australian Defence Force (ADF) at the Townsville Field Training Area, Cowley Beach and RAAF Townsville, between 10 October and 11 November
2010, involving 6,000 Army, Navy and Air Force personnel,
(ii) as a result of the exercise, $4,883,518 was spent in the Townsville district, and
(iii) this training exercise was held for the purpose of testing and evaluating the
units and the formations participating to the highest level of confidence; and
(b) congratulates all ADF personnel involved
in this major exercise, including those involved in the significant planning and logistics roles and, in particular, the Director of Exercise Hamel, Brigadier John Frewen AM.

COMMITTEES
Rural Affairs and Transport References Committee
Extension of Time
Senator PARRY (Tasmania—Manager of Opposition Business in the Senate) (3.32 pm)—by leave—On behalf of chair of the Rural Affairs and Transport References Committee, Senator Heffernan, I move:
That the time for the presentation of the report of the Rural Affairs and Transport References Committee on biosecurity and quarantine arrangements be extended to 28 April 2011.
Question agreed to.

NOTICES
Postponement
The following items of business were postponed:
General business notice of motion no. 27 standing in the name of the Leader of the Australian Greens (Senator Bob Brown) for today, proposing the introduction of the Food Standards Amendment (Truth in Labelling Laws) Bill 2010, postponed till the third sitting day in 2011.
General business notice of motion no. 94 standing in the name of the Leader of the Australian Greens (Senator Bob Brown) for today, relating to the Papua New Guinean Parliament, postponed till the first sitting day in 2011.

PLASTIC BAG LEVY (ASSESSMENT AND COLLECTION) BILL 2010
First Reading
Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.34 pm)—I move:
That the following bill be introduced: A Bill for an Act to provide for the assessment and collection of a levy on the use of plastic bags at retail points of sale.
Question agreed to.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.35 pm)—I present the bill and move:
That this bill may proceed without formalities and be now read a first time.
Question agreed to.
Bill read a first time.

Second Reading
Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.35 pm)—I move:
That this bill be now read a second time.
I seek leave to table an explanatory memorandum.
Leave granted.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.35 pm)—I table the explanatory memorandum and seek leave to have the second reading speech incorporated in Hansard.
Leave granted.

The speech read as follows—
The Plastic Bag Levy (Assessment and Collection) Bill 2010 was first introduced in to the Senate by the Australian Greens in 2002.
The bill would provide for the collection of a levy of 25 cents on plastic bags at the retail point of sale. The intention is that the levy would be paid
into a national environment fund. The amount charged will be indicated on till receipts.

The levy will not apply in limited exempted cases, for example on baked goods, non-packaged fruit and vegetables or fresh meat and fish. It will not apply to paper bags or other similar non-synthetic packaging, but other ‘biodegradable’ bags are not exempted.

The funds collected by the levy could support a national environment fund, administered by the Minister for the Environment, to be used to minimise the impact of, and for education about, environmentally hazardous waste in Australia.

However, the purpose of the levy is not to collect funds but to change customer behaviour and reduce the environmental impact of the billions of plastic bags disseminated each year in our nation – around 6.9 billion per year.

Plastic bags have a costly impact on Australia’s environment—not least the living marine ecosystem. Whales, dolphins and fish die from plastic ingested in mistake for squid or jellyfish.

Similar levies elsewhere have been notably successful. A levy of approximately 27 cents per plastic bag, imposed by regulation in Ireland in March 2002, led to a 90 percent reduction in plastic bag usage within 5 months, with much popular approval.

Bans or levies on plastic bags have also succeeded in Germany, Denmark, Italy, South Africa, Taiwan, and a number of US cities. In 2009, South Australia moved to ban light weight plastic bags expecting 400 million less plastic bags in South Australia as a result.

In Australia, one opinion poll, in 2002, put support for a plastic bag levy at 79 percent. Since 2002 public opinion has continued to grow for action on limiting plastic bag use.

I commend the bill to the Senate.

Senator BOB BROWN—I seek leave to continue my remarks.

Leave granted; debate adjourned.
accepted by everybody. That there are differing opinions as to the extent of human contribution to such changes is a matter of fact. Those differences of opinion exist in the scientific community, in the general population and in this parliament. Unlike those in the Labor-Greens alliance, we in the coalition are not intolerant of differences of opinion. Such differences do not alter the reality that the coalition have a clear policy to reduce emissions and Labor does not. We took to the recent election a direct action policy to reduce emissions without the imposition of higher electricity prices and costs imposed by either the carbon tax that the Prime Minister ruled out on 20 August, the day before the last election, or the emissions trading scheme, which the Prime Minister had her predecessor drop in late April of this year.

If the Greens were genuine in their intentions, they would acknowledge that only one side of Australian politics has a cogent policy to reduce emissions. Instead they seek to play politics through motions such as this. We will not be playing into their hands.

Question agreed to.

COMMITTEES
Legal and Constitutional Affairs Legislation Committee
Extension of Time

Senator McEWEN (South Australia) (3.39 pm)—I move:

That the time for the presentation of the report of the Legal and Constitutional Affairs Legislation Committee on the provisions of the Civil Dispute Resolution Bill 2010 be extended to 2 December 2010.

Question agreed to.

INFORMATION COMMISSIONER

Senator CORMANN (Western Australia) (3.39 pm)—I move:

That the Senate—

(a) notes:

(i) the response by the Information Commissioner to three orders of the Senate seeking information about the Government’s proposed mining tax, dated 26 October 2010, which was tabled in the Senate on 15 November 2010, and

(ii) that the Information Commissioner is of the view that it is not open to him to provide a report to the Senate as ordered because the statute which established his office does not encompass the function envisaged by the Senate in its orders, or by the Government in the agreements on parliamentary reform;

(b) advises the Information Commissioner as follows:

(i) that under section 49 of the Constitution the Senate has the undisputed power to order the production of documents necessary for its information, a power which encompasses documents already in existence and documents required to be created for the purpose of complying with the order,

(ii) this power may be modified only by express statutory declaration, as required by section 49 of the Constitution,

(iii) nothing in the Australian Information Commissioner Act 2010 is expressed as a declaration for the purpose of section 49 that would have the effect of limiting the exercise of the power by the Houses of the Commonwealth Parliament in respect of the Information Commissioner,

(iv) multiple resolutions of the Senate affirm the principle that information may be withheld from it only following consideration by the Senate of a properly founded claim of public interest immunity, and

(v) the Senate has on numerous occasions exercised its power to require statutory agencies and officers to produce information in response to orders; and
(c) orders the Information Commissioner to reconsider his position as soon as possible and provide the information required by the Senate.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry) (3.40 pm)—I seek leave to make a short statement.

The DEPUTY PRESIDENT—Leave is granted for two minutes.

Senator LUDWIG—The government opposes this ill-conceived motion. To be clear, the commissioner has expressed a view, which is in a letter to the Clerk of the Senate dated 11 November 2010, about his inability to exercise a function as Australian Information Commissioner that has not been given to him under legislation. The powers of the Australian Information Commissioner are clearly set out in the Australian Information Commissioner Act 2010, which was passed through parliament on 13 May 2010. Those powers do not include a power to arbitrate in disputes over the production of documents that arise on the floor of parliament. It is the case that agreements reached between the ALP, the Greens and the Independent members for Denison, New England and Lyne propose that the Information Commissioner have a role in this process. The government is committed to implementing these agreements, but the relationship of the commissioner to the parliament and the functions involved do raise some implementation issues.

The Prime Minister has therefore asked the Department of the Prime Minister and Cabinet to examine the issue and advise on possible options for implementing the agreements. Once that advice is received, the government will progress this initiative. If the Australian Information Commissioner is to have this function, it is necessary and appropriate for the functions, powers and protections that would accompany it to be stipulated in legislation.

I might add that the Information Commissioner does not hold the Treasury documents that, I am advised, have led to this motion. For the reasons outlined, the government opposes this motion.

Senator LUDLAM (Western Australia) (3.41 pm)—I seek leave to make a short statement.

The DEPUTY PRESIDENT—Leave is granted for two minutes.

Senator LUDLAM—Before we hear Senator Cormann’s comment, just so that the chamber is very much aware of what this motion relates to: the difference of opinion that has arisen between the Clerk and the Information Commissioner as to his powers under the act is not really the question. The fact is that this chamber should be given access to whichever documents it sees fit. There have been a number of orders for production put through this chamber in recent months that the government has defied. The one that is before the chamber at the moment is in relation to the National Broadband Network business plan. Senator Cormann is pursuing others. All of us in this chamber put these sorts of motions through, for different reasons, from time to time.

I would like to point out that the opposition had 12½ or 13 years to move this kind of instrument through, and they did nothing. When the Greens put a draft motion for this proposal through the Senate Finance and Public Administration Legislation Committee earlier this year, we got a resounding, very ill-informed and badly thought-out rejection from both sides of politics. While I respect Senator Cormann’s right to move a motion such as this through the chamber, which the Greens will be supporting, this is utterly dripping with hypocrisy. This proposal was contained in the Australian Greens
agreement with the Prime Minister which was a very important part of Ms Gillard’s ability to form government in the first place. We will continue to pursue that with the government. We would like to see this situation resolved so that a minister, for whatever reason, can no longer defy this chamber or the House of Representatives when there is an order for production. It is a very serious matter for a minister to defy such an order. We would like to see an independent umpire set up, and we believe the Information Commissioner is the proper place for that. Whether it is explicitly stated in his or her act or not is entirely beside the point. The chamber should be given access to this material when it is asked for. It should not take the word of the minister that it is commercial–confidential or whatever the excuse of the day is.

We want this independent arbitration mechanism put in place, as it has been in New South Wales for years. We look forward to the resolution of these matters as soon as we can.

Senator CORMANN (Western Australia) (3.43 pm)—I seek leave to make a short statement.

The DEPUTY PRESIDENT—Leave is granted for two minutes.

Senator CORMANN—Just quickly in response to some of the comments by Senator Ludlam: I think he is well aware that I have pursued for some time now, in the interests of greater accountability and a capacity for the Senate to scrutinise the activities of government, the requirement for governments to properly be required to explain any refusal to release information sought by the Senate—in particular a requirement to point to the public interest ground and to explain the harm to the public interest that would follow from the release of the information which the government is refusing to release.

Having said that, I advise the Senate that this motion is exclusively based on advice from the Clerk of the Senate. Very clearly, this government has for some time now refused to provide information that has been sought by the Senate on a range of issues. This time it is in relation to the mining tax, but it has been, as Senator Ludlam has outlined, in relation to a great variety of matters. In fact, this government has been very secretive in its approach to the release of information. There is a proper process to be followed here. If the government wants to refuse to provide information sought by the Senate or by a Senate committee, it has to point to the public interest ground on which that refusal is based and it has to explain the harm to the public interest. The government consistently refuses to do so. I believe this is quite contemptuous of the role of the Senate.

In the agreement between the Greens and the government and between Mr Windsor and Mr Oakeshott and the government it was agreed that any disputes in relation to the release of documents ought to be arbitrated by the Information Commissioner. Clearly the Information Commissioner has the power to do so—as is outlined in this motion which is based on advice from the Clerk—because nothing in the act prohibits him from doing so and under the Constitution he has that capacity. This role does not just encompass documents already in existence; it also encompasses documents required to be created for the purpose. (Time expired)

Question agreed to.

NATIONAL BOWEL CANCER SCREENING PROGRAM

Senator SIEWERT (Western Australia) (3.46 pm)—I, and also on behalf of Senator Adams, move:

That the Senate—
(a) notes that:
(i) bowel cancer claims the lives of approximately 3,800 people every year and causes more cancer deaths in Australia than any other form of the disease except lung cancer,

(ii) as a result of the launch of the National Bowel Cancer Screening Program in 2006, more than 1.6 million people have been invited to participate in the program and screen for bowel cancer but approximately 5 million at risk Australians are currently missing out on this vital program,

(iii) early screening for bowel cancer has the potential to prevent as many as 2,000 deaths every year, and

(iv) the current program ends in December 2010; and

(b) calls on the Government to:

(i) commit to maintaining the current funding for the National Bowel Cancer Screening Program for at least 2 years while an implementation plan is put in place for a comprehensive bowel screening program, and

(ii) develop an implementation plan for a comprehensive bowel screening process that includes people aged 60 and 70 and follow-up tests.

Question agreed to.

NOTICES

Presentation

Senator Boswell to move on the next day of sitting:

That the following matter be referred to the Economics References Committee for inquiry and report by 17 December 2010:

The decision of the Australian Competition and Consumer Commission (ACCC) to oppose the proposed acquisition of the Franklins supermarket business by Metcash Trading Limited, with particular reference to:

(a) the basis of the ACCC decision to oppose the proposed purchase;

(b) the competition impacts of the decision at the retail and wholesale levels;

(c) whether the Franklins’ distribution warehouses, supplying eight franchised stores, could be regarded as an independently sustainable wholesale business; and

(d) any other related matters.

MATTERS OF URGENCY

Climate Change

The DEPUTY PRESIDENT—I inform the Senate that the President has received the following letter, dated 22 November 2010, from Senator Milne:

Dear Mr President,

Pursuant to standing order 75, I give notice that today I propose to move:

That, in the opinion of the Senate, the following is a matter of urgency:

The need for the Government’s negotiating position at Cancun to be informed by an understanding of both the latest climate science and what constitutes an equitable contribution by Australia to the global challenge of decarbonisation.

Is the proposal supported?

More than the number of senators required by the standing orders having risen in their places—

The DEPUTY PRESIDENT—I understand that informal arrangements have been made to allocate specific times to each of the speakers in today’s debate. With the concurrence of the Senate, I shall ask the clerks to set the clock accordingly.

Senator MILNE (Tasmania) (3.49 pm)—I move:

That, in the opinion of the Senate, the following is a matter of urgency:

The need for the Government’s negotiating position at Cancun to be informed by an understanding of both the latest climate science and what constitutes an equitable contribution by Australia to the global challenge of decarbonisation.
Today in the House of Representatives, there was a debate about whether climate change is real and human-induced. Frankly it is embarrassing that in the Australian parliament in 2010 we are still having this debate which is long gone in all other developed countries, who are now getting on with determining the policy framework necessary to address the climate crisis.

I am glad to say that a few minutes ago a motion of mine was passed—the coalition said they would not call a division on it and they did not say they opposed it. The motion stated that not only is climate change real and human-induced but also that urgent action to reduce greenhouse gas emissions is required to achieve the goal to which Australia committed under the Copenhagen accord—namely, constraining global warming to two degrees above pre-industrial levels.

The point is that the debate we should be having here today is about the latest climate science, about what Australia is going to do about it and about what our fair share is. What is an equitable burden for Australia in a global negotiation? Our minister will be representing this country in Cancun next week, and the parliament really ought to know what the government is taking to those negotiations.

The first thing that this parliament—politicians—need to actually respond to is: how much warming do we think is safe for the planet? We have never had that discussion in this parliament and we need to have it. You have to know exactly what you are aiming for and with what degree of certainty you are going to reach that goal before you can set in place what you need to do.

The second thing we need to do is determine how much the world can emit and stay below that threshold. That is the global carbon budget, which will determine the constraint on warming you are aiming for and the degree of certainty that you have about it.

Finally, we need to determine Australia’s fair share. The scientists have already given us the answers we need. The science is not the problem—we have it. Overnight, the scientists said that 2010 is the hottest year on record. From January to October, terrestrial and marine temperatures combined to make it the hottest year on record. The scientists also told us overnight that in 2009 emissions of fossil fuel gases have edged back less than had been hoped. We were told that the global financial crisis would bring us some respite, and the scientists had modelled an expectation that greenhouse gases would retreat marginally, but they actually retreated by only half of what these scientists and others expected. Emissions of fossil fuel gases in 2009 fell by 11.8 per cent in Japan, 6.9 per cent in the US, 8.6 per cent in Britain, seven per cent in Germany and 8.4 per cent in Russia but—in contrast—rose by eight per cent in China, 6.2 per cent in India and 1.4 per cent in South Korea. As a result of all that, there is still a trajectory of incredible increases in greenhouse gas emissions.

In Copenhagen last year, Australia signed the Copenhagen Accord, which said that the increase in global temperature should be below two degrees Celsius on the basis of equity and in the context of sustainable development and that, further, that would enhance our long-term cooperative action to combat climate change. But is two degrees safe? The scientists would argue that in fact it is not safe by any means and that allowing 450 parts of atmospheric CO2 per million only gives us a 50 per cent chance of constraining global warming to less than two degrees. I would hope that we would be aiming for better than a 50 per cent chance of achieving something as serious as survival on this planet. If 450 parts of atmospheric CO2 per million is only going to give us a 50 per cent
chance of survival—and in fact the science says that 450 parts of atmospheric CO2 per million is probably only going to give us a 35 per cent chance—shouldn’t we be saying, ‘Actually, that is too much; we need to rein this in’? The developing countries around the world say that they would like global warming to be constrained to 1.5 degrees.

Let us put this into a real-world context: we have only had 0.6 per cent of one degree Celsius of warming so far, and look at what we have already experienced. We have experienced extreme weather events, glaciers melting, sea levels rising and storms that have devastated so many parts of the world. We have seen extreme flooding. We have seen all sorts of problems, not to mention the extreme drought in the Murray-Darling for so long and the fires all over Australia, particularly in Victoria where we saw extreme bushfires. We know that with global warming there is going to be an increasing number of days of extreme weather conducive to the outbreak of bushfires around Australia. We know that, by allowing two degrees of warming to occur, we virtually guarantee the loss of the Great Barrier Reef. I am going to say that again, because most Australian parliamentarians do not get it: by allowing two degrees of warming to occur we will lose the Great Barrier Reef.

Senator McGauran—Rubbish!

Senator MILNE—You can say it is rubbish, Senator McGauran, but that is the science. Thermal warming of the oceans is already occurring and, in addition to that, there is the acidification of the oceans—that is, the oceans are becoming more acidic as a result of the take-up of carbon dioxide—and that is weakening the coral reef systems and threatening the whole marine food chain. Creatures that require calcification of their shells cannot make their shells with the level of acid in the oceans, which means that the krill and the whole marine food chain are threatened. That is the reality.

At the CRC in Hobart, which is looking at this issue, it is said that 450 parts of atmospheric CO2 per million is the tipping point for ocean acidification at which those creatures are lost. I would not want to be taking a 50 per cent chance; I would want to be saying, ‘We need to actually increase the probability of our getting a safe climate.’ If we say that, we have to answer a more difficult question: how sure do we want to be that we do not cross the two-degree guardrail and how sure do we want to be that we can actually constrain warming to less than two degrees? I would say that the precautionary principle says that we want to be much more certain than we would be by only giving ourselves a 50 per cent chance.

Here we come to the issue of the carbon budgets. Professor Will Steffen said quite clearly in his presentation to the Multi-party Climate Committee, which is now readily available, that if global emissions peak in the year 2015—that is, five years from now—we can stick to a reasonable budget by reducing emissions by about 5.3 per cent every year for about 30 years. So if we started we could do it. But, if we postpone the peak beyond 2015 until, say, 2020, global emissions would have to fall by nine per cent a year for two decades, and just about everybody says that would be virtually impossible to achieve.

We are at a critical time for the future of the planet. This is not something we can come back and revisit in 2020. These are the years in which this generation will make the decisions that will determine what life will be like for every generation after us in terms of species extinction and marine food chain issues. There are no more critical questions to answer than: how high are you prepared to let the temperatures go? How much warming
will we accept? What degree of probability do you want to achieve where we set out to achieve a safe climate? What is the carbon budget that does that and then, inside that carbon budget, how much is Australia’s fair share?

I will go to the actual carbon budget. Professor Steffen said to maintain a 75 per cent probability of staying within a two-degree temperature range, humanity can emit 1,000 gigatonnes of CO2 between 2000 and 2050. To stay at two degrees, 1,000 gigatonnes, 2000 to 2050 and, already in the nine years from 2000 to 2009, 305 gigatonnes were emitted—in other words, over 30 per cent of the budget between 2000 and 2050 has been emitted this decade. It simply cannot go on if we are to meet a carbon budget that can constrain global warming. So we have to not only decide the temperature target; we have to decide how we are going to achieve it.

If you recognise that a third of the budget has already gone that puts you in the frame of saying: ‘Developed countries, you are on notice. A five per cent reduction is laughable. It’s nowhere near in the ballpark.’ As for the coalitions suggesting its policies can achieve the kinds of reductions we are talking about here, it is errant nonsense, absolute nonsense. If you are going to get the kind of trajectory that has developed countries taking on their fair share, we have to know what the principles are that the Australian government is going to put forward.

We have said in public fora, ‘Australia will contribute its fair share.’ But what does that mean? What is our fair share? What are the principles that we are going to use to underpin that fair share? Ethical approaches to this in any kind of global discussion contain debates about: do we have an equal per capita allocation so every person on earth gets the same carbon budget? If we were to do that, rich nations like Australia would need to reduce our emissions to about four tonnes of CO2 per person by 2020. Now in Australia we are emitting 27 tonnes per capita. Currently, we are on 27 tonnes per capita. We would need to get that down to four tonnes per capita, if you used a baseline year and went on equitable access to the world’s carbon budget.

If you took into account our historical responsibility and the development rights of developing countries, that is the kind of notional view that you would come to. Instead of that we are seeing in the global negotiations a cost-equalisation approach where we are trying to divvy up the pie so that the economic cost borne by nations, particularly rich nations, is about the same. That is just not going to work, because some developed countries are going to say, ‘Hey, that’s not fair. We have been working to reduce our emissions to transform our economy for a very long time. We’ve made decisions to stabilise and reduce our population. You in Australia have done nothing for decades. You are deliberately increasing your population. You haven’t put into place those frameworks that you should have, so we are not going to accept that approach.’

The only way you can do this is to take an ethical approach which, either way you look at it, will see Australia being given a very small share of this global carbon budget that we have got left out to 2050. If you agree that a third of our budget to 2050 has already gone, it means the steepness of the reductions has to be very steep. That means deep reductions in Australia and a rapid transformation of the Australian economy. That is the debate we should be having in Australia today—not whether global warming is real, not whether it is human induced, but rather what degree of warming we are prepared to accept. What level of probability do we want that we will constrain global warming to far less than two degrees? In that context, what
is the global budget and what is our fair share?

Before Minister Combet goes to Cancun next week, Australia needs to know: what are the principles that Australia is going to put forward? All I have seen is that we are there rent-seeking again, saying ‘We’ve got an increasing population.’ Yes, we have because we choose it. It is a policy decision to do that, and that is not something other countries are going to be sympathetic to, so we need an explanation from the government as to those principles.

Senator CAMERON (New South Wales) (4.04 pm)—I am pleased to participate in this urgency debate. Senator Milne’s motion goes to two issues: the latest climate science and an equitable contribution by Australia to the global challenge of decarbonisation. I am not one of those senators who argue for the precautionary principle; I am convinced by the science. I participated in three inquiries into the CPRS and climate change in this country, and every reputable scientist who came before those committees has argued that we must take action on climate change. I do that not only from an economic perspective and an environmental perspective; I support this because, like many senators, I have got grandchildren. Like many senators who have got young children, we have to think about what their future is on this planet, not some crazy debate that as Senator Milne has said has bypassed us and gone everywhere else in the world. I want a future for my grandchildren.

I have had the benefit of the overuse of carbon around the world but I think there comes a time where we have to pay a price to overturn that, and I think a price on carbon is absolutely essential. As a union official some four years ago, I attended a conference in the UK where the president of Ford Europe gave an overview of where Ford were going in the future. This is one of the biggest corporations in the world, and they were arguing that there was no debate about global warming. There was no debate about the need to make change. They were setting about looking at how they could develop the technology, designs, materials, new work practices and new manufacturing processes to make sure that Ford could survive in a changing environment and a changing world. When you have some of the biggest corporations in the world accepting that we need to make change, I think it is important that the parliament of Australia accepts that we need to make change as well.

There are different points of view, but, in my estimation, they are not instructed by science; they are instructed—when it comes to some in the coalition—by short-term political gain and a refusal to accept the reality of the science on climate change that faces the whole world. You only have to look at what is happening around the world and at some of the scientific models that have been there for some time to realise that the modelling is becoming reality. We see floods in Asia and massive heatwaves in Russia and yet in some parts of this Senate we try to pretend that it is all just, as the Leader of the Opposition would have it, ‘crap’. It is not crap; it is the reality of climate change; it is the reality of us having to face a situation that we can do something about. We should not allow that position to be hijacked ever again by the extremists, the climate change deniers or the climate change sceptics—because I want a future for Amy and Scott, my two grandkids. They are the important ones for me for the future. Even the precautionary principle as was outlined by Senator Milne should be enough for the coalition. They should accept that their children and their grandchildren deserve the benefit of the precautionary principle.
We will need to get through this very tough economic, environmental and political debate. I do not think the government or the Labor Party should ever, ever walk away from what is important in terms of making sure that there is a future for future generations. We have paid a heavy political price for not being clear and unequivocal about our position, and I am convinced that we will not make that mistake again. We will not be intimidated. We will not be confronted by the misrepresentations, the short-term politics and the lies out there in relation to global warming, because global warming is real. Global warming is something that we must face and deal with. It is not rubbish, as has been said here today.

The scientific facts are clear. We must make cuts to our carbon footprint and we must play our part. We need to get through the political problem that we have in convincing not only this parliament but also the community that it is appropriate to take changes forward and make the necessary sacrifices to ensure the future of not only future generations but also this planet. I want to do that in conjunction with the leadership of the Labor Party in a courageous but scientific way, because we will need to be courageous to confront some of the lies and misrepresentation that will be out there on global warming. We will need to confront those that would go out and run a short-term scare campaign at the expense of the long-term future of this country.

We would be able to make deeper cuts and wider changes to deal with carbon emissions in the community if we had a consensus in this parliament. But there is no consensus because the extremists in the coalition have taken over. I notice that Senator Birmingham will be speaking on this debate next and I do not include him in that description.

Senator Boswell—What about me, Doug?

Senator CAMERON—Yes, I would say that you are an extremist, Senator Boswell. I am glad you woke up because I think you are part of the problem, not the solution. I think you are a huge problem. The National Party is a huge problem in this country. Senator McGauran, who jumped ship from the National Party to the Liberal Party, is in the chamber as well. He says this is rubbish. We have the National Party out there doing what is not in the interests of rural and regional communities in this country, and that is denying the reality of climate change in this nation and on this planet.

You are an extremist, Senator Boswell, on this issue. You are a climate change denier and sceptic. You are entitled to be all of those things, but I am not prepared to allow you to do that at the expense of my grandchildren and future generations. That means that I have to stand up here and argue the point that we need to take strong action on the basis of maintaining a decent future for generations to come. If you say that you are an extremist and you ask me to call you an extremist, I am there—I will do that because that is what you are. You are a denier and you will not accept the science. You are not doing the right thing by regional and rural communities and you are not doing the right thing by our future generations. Slogans and oppositionalism are not good enough on this issue. We are prepared to take action to ensure that the environment is preserved for future generations. (Time expired)

Senator BIRMINGHAM (South Australia) (4.14 pm)—I am pleased to contribute to this debate and I will certainly return to some of the remarks made by Senator Cameron during his contribution. Notwithstanding the faint praise—or however one may wish to accept it—he gave me during that contribution, there are a number of issues on which I wish to take task with Senator Cameron.
First of all I am surprised that the Australian Greens have brought this motion to the chamber today. I am surprised because I thought in the new paradigm, in the new world in which we are living, that perhaps the Greens had the access to get the answers to the questions that Senator Milne was asking in her contribution directly from the government. I thought that was what the new arrangement entailed. I thought that if Senator Milne wanted to know what principles the government would be taking to Cancun, she would be going into the multiparty committee on climate change and carbon pricing and asking, finding out and getting some answers. It is a little disconcerting to come into this place and find that in the agreement between the Greens and the government we now have the Greens unable to get the types of answers to this key issue on which they negotiated to keep the Labor Party in government after the recent election. I would have thought that they would ask the questions in the weekly meetings that I understand Senator Brown and members of the Greens of various persuasions have with the Prime Minister and find out the position the government was going to take at Cancun. But they appear not to be able get answers to this important issue—and reasonably important and understandably important to the Australian Greens—from the government to satisfy them in a way that prevents them from having to come into this chamber and pose a motion, pose questions and conduct the debate in the public fray rather than getting some clear answers from those who we thought were their partners in government.

But I do welcome the motion and I particularly welcome the aspects of the motion that call for an equitable contribution by Australia and that highlight that decarbonisation is a global challenge. These are important words to draw attention to within the construct of this motion. It is indeed a global challenge because action on carbon requires unified, comprehensive global agreement. In particular, of course, it requires real agreement from developed nations and from the major developing economies. For all that some have tried to pitch Australia’s contribution as not being significant enough or Australia as not doing enough to put itself ahead of the rest of the world, the reality of this debate is that we will only succeed in tackling climate change, in reducing emissions, if we have genuine global action that encompasses all of those major emitters—all those countries who emit far more than Australia does.

One of the great disappointments of last year was the Copenhagen conference. For all the build-up, for all the hype, for all the thousands of people who converged on Copenhagen, we saw a three-page accord signed. I know that Senator Milne was disappointed by that and I understand the intent of this motion is of course to hope that something better can come out at Cancun than came out of Copenhagen. Insofar as that intent is the case, I welcome that intent, but that will require genuine agreement from all of the other major emitting countries. That will require, echoing the lingo used at the time in Copenhagen, outcomes to be ‘measurable, reportable and verifiable’. That means that, rather than at present where all we are getting are relatively glib contributions or pronouncements from most of the countries who have signed up to the Copenhagen accord, we will need to see some far more concrete commitments as to how reductions will occur.

If that is the case, the coalition has been on the record consistently supporting reductions in emissions in Australia in a manner that is commensurate with those in the rest of the world. Indeed, we have supported them at least at a minimum of five per cent and we will support more if that is what the other
developed and developing countries who are major emitters choose to do. We are willing for Australia to take a lead. We think it should. We put the five per cent in place from our policy perspective. We think that is an ‘equitable contribution’ and starting position, to use the words in Senator Milne’s motion. We think to go beyond that then requires global action and that that is where we will see Australia able to continue to make a contribution at an equitable level.

We think an equitable contribution is one that does not drive carbon leakage from this country—that does not push emissions offshore; we think that an equitable contribution is one that does not place undue and unreasonable costs on Australian households, families, small businesses and industry. We think that an equitable contribution is one that, so far as possible, delivers win-win outcomes—outcomes that, yes, you reduce emissions but actually provide benefits for the rest of the economy. These are the types of contributions that we think are equitable contributions to decreasing the amount of carbon in our economy, especially at present when we see such limited activity from the major developed and developing emitters to do likewise. That is what the coalition policy exactly does. It does seek to remove carbon in a way that does not provide for carbon leakage. It does seek to do so in a way that does not impose great costs, great taxes and higher electricity charges on Australian families, businesses or industry. It does so in a way that tries to provide for win-win outcomes.

I note that the government, even today, is reported to be advancing carbon farming initiatives—the types of things that are front and centre in the coalition’s policy. These are the types of things that many members of the coalition have argued for for a long, long time—the types of soil carbon and sequestration opportunities that can provide win-win benefits by sequestering carbon in Australia’s soil, increasing that carbon content and in doing so allowing us to manage our water resources better and enjoy greater productivity. These are the real benefits.

I finish on Senator Cameron’s comments. I noted that Senator Cameron made a very clear and pointed statement about his own party, saying that he did not think that Labor should ever walk away from a contribution to this debate again. Indeed, we see a government that is void of a policy position in this space. We have a Prime Minister who convinced the former Prime Minister to abandon an emissions trading scheme and who went to an election promising not to have a carbon tax. Yet now she is trying to choose between the two without telling the public what the real agenda is. It is time for the government to own up because on this side we know what our policy is.

Senator FISHER (South Australia) (4.22 pm)—I speak on this motion moved by Senator Milne and in particular to the urging of the government to inform its understanding on the basis of evidence, which this government, both in its previous term and this term, is proving again and again it is incapable of doing. That is despite the promise of previous Prime Minister Rudd that the Labor Party would formulate and implement evidence based policy.

On climate change and climate science, Senator Cameron could have saved, firstly, himself and, secondly, us from having to hear his regaling the Senate. He must think that there are people in this place that think that something should not be done about climate change. I think he misunderstands. There are very few people, particularly in this place, who think something should not be done. The difference lies in whether or not we are prepared to agree that anything—just anything at all—will do. This govern-
ment is hell-bent on policies that sound good without proving that they will do any good. In the words of Malcolm Turnbull, if I may borrow them—he applied them to the National Broadband Network but they apply here as well—this government seems to think that it can go about designing and implementing policies, including policies on the environment, where the end ex post facto justifies the means, rather than building from the means up to the end. This government believes that, with its policies, the ends will suffice to justify the means.

We agree with this government on the ends. That is why this parliament and the coalition have agreed with the government about reducing targets for emissions. We agree on the ends, but where we very, very much disagree is on the means to get to those ends. So, where this government would tax the Australian people and this government would increase electricity prices paid by the Australian people, the opposition would go down the route of direct action to make a practical difference to achieve those ends.

We believe that we have produced the evidence that demonstrates that our means to get to those ends will work, whereas this government, particularly in respect of environmental programs, have not demonstrated this by again and again supporting policies that sound good but do little good. They do not seem to be able to understand what should be a connect between formulating the means to achieve the ends rather than thinking that the Australian people will be fooled into accepting the other way around. A recent Senate Environment and Communications References Committee report into the Green Loans program recommended, amongst a raft of other things:

… that the government not implement any environmental programs without prior completion of an evaluation which shows either net environmental benefits and/or a program cost which gives taxpayers value for money.

That recommendation was largely born out of frustration of a number of members of the committee with this government’s apparent failure to understand the basic wisdom of evidenced based policy. They have demonstrated that in their programs time after time—for example, with the Home Insulation Program. Under the Green Loans program itself, around 360,000 home assessments were done. There are a lot of carbon miles in those home assessments, yet at the end of the abysmally failed program only about 7½ thousand out of the original 200,000 interest-free green loans were taken up. How is that an environmentally beneficial use of some 360,000 home assessments?

We still do not know how many of the Home Insulation Program insulations were dodgy. There has not been an audit of every home, but we do know that the government embarked upon the Home Insulation Program supposedly to stimulate the economy, to create jobs and to benefit the environment. The economy has been stimulated more by the government having to fund mopping up the mess than it has been on the input side of the equation. As for jobs, any jobs that were created were smashed overnight, at the stroke of a ministerial pen, with the suspension and then the cancellation of the program. As for environmental benefits, how can a home insulation program provide any environmental benefits when, because of the failings in the administration of the program, things happen like putting the wrong sorts of insulation in the wrong ceilings in the wrong sort of climate? Dangerous and dodgy insulation was installed and then had to be either neutralised with a safety switch or removed. Indeed, when some of that insulation was removed, depending on the nature of it, it was not biodegradable. Not only were there the excess carbon miles created by putting
stuff in and then taking it out with a nil result but also there was the disposal of the insulation at the end of the day.

We still do not know how many carbon emissions will be saved as a result of the Home Insulation Program. Indeed, I suspect they are more likely to be created. The Hawke review found that the level of deficiency in the installation and removal of insulation under the program would suggest that the departmental estimate of 1.65 tonnes of carbon dioxide equivalent per home insulated saved each year is overly optimistic and will need to be revised downwards. This government needs to get with the program, get with the evidence, get with policies that do good—(Time expired)

Senator MOORE (Queensland) (4.30 pm)—Senator Milne’s motion this afternoon has highlighted some core aspects of agreement, and I think that is really important. We have spoken many times before in this place about the importance of this issue being openly discussed in the parliament. As this motion puts it, it should be openly discussed and accountability should be taken at the international level. We will have a real opportunity at Cancun, the first international gathering on these issues since Copenhagen, to accept that we have moved on. I remember debating this issue in this place for many hours in the lead-up to the Copenhagen conference. People were talking about whether we were going the right way and what the appropriate response to these issues would be, and there was a lot of pain expressed in those debates—and all of that continues.

But the core aspect of Copenhagen, despite the frustration and anger that we did not get the result that we wanted in terms of an effective international agreement, was that, through that process, there was effective discussion of the issues, and there was agreement by a large number of countries—which consistently gets forgotten—about the need for action and the need for concurrence on the science. Through those hours of discussion in this place, it certainly became clear that there was a genuine difference in the whole of the parliament—the House of Representatives and the Senate—about the science. The government remains committed to having an open and aware discussion of the science. Professor Garnaut’s paper in 2008 was the basis on which we went to the community to look at the issues of climate change and the need to take action in this country. Minister Combet has worked with Professor Garnaut to continue his extraordinarily important work and update the work he put in place in 2008. So we still have the core assessment, the knowledge that all of us shared in 2008, and we are going to update that.

I am sad to say this, but the reality is that that does not mean there will be agreement in this place on these issues. We will hear that in this afternoon’s debate. We will hear many of the same people—quite rightly, because it is their right and it is their job in this place—put forward their views on the science and the issues around climate change. We know that there is not agreement here. What we should do is try to bring ourselves forward so that we can find out what we agree on and what we disagree on, and then it will come down to the numbers, as it so often does in this place. Frankly, the government knows that the last time issues around climate change came to this chamber we did not have the numbers. We hear a lot about alliances in this place, and during that debate there was an alliance of people who had agreed to vote down the proposal for climate change action in this country leading up to Copenhagen. But that is history. Moving into the Mexico round of discussions we now have the opportunity to make progress—and I believe there is real hope.
But that does not mean that everybody in this place is suddenly going to have a Damascus experience and believe in the issues of climate change. I wish that would happen but I am doubtful. I think what will happen is that we will have the same disagreements. I have six regular correspondents who email me on, I think, a daily basis with an amazing amount of email references—often the same ones—which can prove beyond doubt that there is no such thing as climate change. That is their belief and they should put it forward. I do not agree with them. I actually believe that we have a genuine responsibility and climate change is a huge issue. But it is not just an issue for Australia. We cannot talk about this as a purely Australian issue. Leading up to Copenhagen we said we needed to take our role as part of an international response to an international issue. Climate change knows no boundaries. You cannot draw boundaries on a map and say climate change is an issue for one country but not for a neighbouring country.

And that is particularly clear in our region. One of my clear memories of Copenhagen—I was one of those people who was mad enough to watch it on the Sky Channel news to see what was going on; and I am sure there were a few other people in this place who did that—was the evidence put forward by a group of people from the Pacific nations. They knew their science but, more than that, they knew their reality.

Senator McGauran interjecting—

Senator MOORE—They came to that conference, where a range of people were talking about what was occurring in their world—I was not at the conference and I know Senator McGauran did not attend—and they begged all of us to take notice of their concerns. I do not think we have the right to move away from that. There are people in this chamber who do not accept that and that will be their position—and no amount of science, no amount of email attachments and no amount of personal evidence will change their minds.

In terms of Senator Milne’s motion and what we move forward to at Cancun, we as a nation need to be informed by the science—and our government is attempting to do that by getting more information through the process led by Professor Garnaut and encouraging each of us to follow up these issues for ourselves. It is not good enough to just sit back and let other people do it. I think there is a tendency to do that in some cases, because it is not easy, it is complex. But when we have the information provided by Professor Garnaut and the Australian Chief Scientist and a range of international bodies coming forward to talk about what is happening in our globe, that is a pretty firm base on which to look at the future and see what our own responsibilities are.

So many people who visit my office can point to what they are doing personally. That is an incredibly powerful message. There are people in our community who are already making personal efforts to change their own lives and look at how they can contribute to ensuring that Australia has a lower carbon future—and, if Australia has a lower carbon future, the world will have a lower carbon future. It is too easy to argue—and we heard it here for weeks—that we should not act before everybody else does because somehow all the citizens of Australia would have to take the pain. I do not accept that. As Senator Milne’s motion says, Australia needs to make an equitable contribution to the global challenge of decarbonisation—and that certainly means we should be aware and informed.

It is inspiring to see what some of our citizens are already doing, in small groups and communities, to change the way they live,
travel and communicate. They have put a challenge to us as their government: if they are prepared to do that, why don’t we as a government understand the need and take stronger action together to work forward? We failed that challenge several months ago in this place, and that is sad, but we cannot dwell on that. We have to look at the fact that we have an issue that is impacting on us. We have science that proves that.

No science is perfect. There have been some jokes about getting parliamentarians into one room—if you get a whole bunch of scientists in the one room, you also get conflicting views. But, when you look at the views on balance, you understand the need for action, and that is what the government is taking by setting up the Multi-Party Climate Change Committee—and we hope it will continue to be multi-party. We are trying to share knowledge, to listen to the science and to listen to the community, and we are planning our policies and action on that.

Cancun gives us the opportunity to take our knowledge to a group of people who share a common commitment to the world. There will be challenges. Even since Copenhagen, numerous countries have introduced their own ways of reducing carbon in their economies and societies, and more are signing up to the need. India and China, which we talked about in this place several months ago, have made international public statements acknowledging that they have work to do and will do it. That is a major step forward. Leading into Copenhagen, there was no such statement.

As a result of what occurred at Copenhagen, I would not think the same hope is there leading into Cancun. But it an opportunity for the nations who choose to be there—again, it is really important that nations that turn up to Cancun have made the choice to be there and be part of the discussion. That is step 1. We can share the knowledge and share the science, because that is how we grow, that is how we can move forward. As Senator Cameron said earlier in this discussion, we cannot turn our backs because we failed before. That is something that we will all live with, but we now have the opportunity to develop effective policy and to take our role seriously in the international struggle with the issue of climate change.

Senator Boswell (Queensland) (4.39 pm)—Senator Milne’s motion refers to the Cancun, Mexico, meeting in a couple of weeks time. I suspect the results will be very similar to those of Copenhagen; I do not expect great results. We will go through the motions and in the end it will be the same. There are certain realities that you have to face in this life. I am not an extremist. I do not know whether or not climate change exists. There are many views, and many different scientists say different things. Some very eminent people have said that the way to beat climate change is by developing processes that are not going to cost the world, that are not going to ruin businesses.

According to Senator Milne, an equitable contribution from Australia would be to reduce our emissions per capita from 27 tonnes a year to four tonnes a year by 2020. I did a little calculation—that means we will have to reduce our emissions over the next 10 years to one-fifth of their current level—that is a 500 per cent reduction. Senator Milne, do you understand what you are asking?

Senator Bob Brown interjecting—Senator Boswell—Yes, she did say that, Senator Brown. Do you understand what that means? I am a practical person. I know what this means. During the last break, people came to me and said, ‘With the dollar where it is, we just can’t take any more; we’re up to where pussy wore the bow—right up to the neck.’ Let us take groceries as
an example. We are importing $181 million worth of groceries. We have lost 330,000 people in the grocery industry and are down to 285,000. That is because our costs are going up and the dollar is higher—put an ETS on top of that and you will blow Australian industry right out of the game.

That is what we have to face. Whoever is right—whether it is those who say we will all be doomed if we do not do something about climate change or it is those who say it is not real—it will not matter one iota if China, India, Russia and America are not on board. America have said: ‘We can’t do this. If we put an emissions trading scheme or a cap-and-trade scheme on our people, on our industry, we won’t have 9.6 per cent unemployment; we’ll have 15 per cent unemployment.’ It is just not politically acceptable for them to do it—they cannot do it. India cannot do it. China cannot do it. Yet you want us to do it. You want us to take this suicidal step and blow our industries out when no-one else will.

At the same time as we are supposed to cut our emissions down by 25 per cent of business as usual, the Chinese will go from putting five billion tonnes of carbon into the atmosphere to putting 10 billion. Where is the sense in this? What are you going to say to the Indians? What are you going to say to the Chinese: ‘Sorry, guys, just let your people starve, let them live in cardboard boxes, let them beg in the streets’? That is the alternative—they have to compete in the world.

I listened to Senator Cameron, who called me an extremist. I was out the other day and I saw a car called a ‘Great Wall’—nice car. (Time expired)

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (4.45 pm)—I respect what Senator Boswell had to say. It is a different point of view and it is wrong. All through history we have seen people who have not wanted to believe the mounting evidence of some coming catastrophe. We saw it before the Second World War. If you study the history of the Byzantine Empire you will see it in the 1450s in Constantinople, where there were those who believed that the angel in front of Sancta Sophia was going to protect them from the invading hordes. It did not.

Very often this attitude means that we do not prepare adequately to meet the challenge of the age. That is the question before all of us in this very worthwhile motion from Senator Milne. By the way, Senator Milne, when pointing to those figures that Senator Boswell is concerned about, was quoting the work of the German Advisory Council on Climate Change, which Professor Will Steffen from the Australian National University was quoting. That study says that the rich nations need to reduce their emissions to about four tonnes of CO2 per person by 2020. Right now Australia is emitting more than 27 tonnes per capita—in other words, we need to reduce emissions by more than 80 per cent by 2020. So, yes, the good senator who preceded me is right; he has his sums right. What is worrying is that because it is such a challenge to us the answer is, ‘We can’t do that, it’s too hard.’ We know that when there is a war between human beings economies can transform by 50 to 20 per cent within a matter of 12 months. The challenge to divert two per cent of our gross wealth to protecting ourselves from climate change is too much for many members of this place, and the people they represent, at the moment.

Senator Moore said that last year the majority voted down a plan for action but the plan for action that she cites, under the Rudd government, was a five per cent reduction—not a 20 or 40 per cent reduction—with a $20 billion price tag for taxpayers, which
was going to transfer that money to polluters. It was not an action plan; it was a plan with ‘failure’ written all over it. We are very keen on making a success, post election, of the climate change committee, which has been agreed to by Prime Minister Julia Gillard and the Greens. We will do everything we can, not only to make that work but to ensure that it meets the challenge that climate change gives us.

I read in the weekend press—and this might help solve some of the worries of Senator Boswell—that getting a carbon price is going to add billions to the economy. To put it another way, the carbon price will remove the restrictions on billions of dollars of investment in the economy—restrictions which are there because there has not been a carbon price to date. There are enormous economic benefits if we take the road of Sir Nicholas Stern and green up our economy and become a world leader, as the Germans have done, rather than a world laggard.

We should look at the effective carbon price that has been brought about through whatever measures. People may have seen the chart in the weekend press: Australia is way behind China and the UK. We are enormously back in the ranks, and we have a big job to do. But we will not do it by having a Wandoan coalmine in Queensland. That one coalmine is effectively going to increase Australia’s greenhouse gas emissions by the equivalent of 10 per cent. What is the point of working to reduce our emissions if we are simply going to sell coal which will make an even greater impact on the environment elsewhere in the world? We need a great deal of common sense and to make some hard decisions but the future of the nation and the rights of our grandchildren are dependent upon us getting this right.

Question agreed to.

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**PARLIAMENTARY ZONE**

Proposal for Works

Senator FARRELL (South Australia—Parliamentary Secretary for Sustainability and Urban Water) (4.45 pm)—In accordance with the provisions of the Parliament Act 1974, I present a proposal for works within the Parliamentary Zone relating to an external expansion to the Abacus childcare centre at the Treasury building.

NOTICES

Presentation

Senator Farrell to move on Thursday, 25 November 2010:

In accordance with section 5 of the Parliament Act 1974 the Senate approves of the proposal by the National Capital Authority for capital works within the Parliamentary Zone relating to an external expansion to the Abacus Childcare Centre at the Treasury building.

DOCUMENTS

Tabling

The Clerk—Documents are tabled in accordance with the list circulated to senators.

Details of the documents appear at the end of today’s Hansard.

VETERANS’ AFFAIRS AND OTHER LEGISLATION AMENDMENT (MISCELLANEOUS MEASURES) BILL 2010

FOOD STANDARDS AUSTRALIA NEW ZEALAND AMENDMENT BILL 2010

PRIMARY INDUSTRIES (EXCISE) LEVIES AMENDMENT BILL 2010

CARER RECOGNITION BILL 2010

TRADEX SCHEME AMENDMENT BILL 2010
OZONE PROTECTION AND SYNTHETIC GREENHOUSE GAS MANAGEMENT AMENDMENT BILL 2010

Assent

Messages from the Governor-General reported informing the Senate of assent to the bills.

COMMITTEES

Intelligence and Security Committee

Membership

The ACTING DEPUTY PRESIDENT (Senator Hutchins)—A message has been received from the House of Representatives informing the Senate of the appointment of Mr Byrne, Mr Melham, Mr Danby, Mr Wilkie and Mr Ruddock to the Parliamentary Joint Committee on Intelligence and Security.

HIGHER EDUCATION LEGISLATION AMENDMENT (STUDENT SERVICES AND AMENITIES) BILL 2010

First Reading

Bill received from the House of Representatives.

Senator FARRELL (South Australia—Parliamentary Secretary for Sustainability and Urban Water) (4.53 pm)—I move:

That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

Second Reading

Senator FARRELL (South Australia—Parliamentary Secretary for Sustainability and Urban Water) (4.53 pm)—I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in Hansard.

Leave granted.

The speech read as follows—

This Bill delivers on the Government’s commitment to rebuild essential university student services and to also ensure that students have access to representation and advocacy on campus.

The Higher Education Legislation Amendment (Student Services and Amenities) Bill 2010 outlines a robust and balanced solution that will not only help ensure the delivery of quality student services – it will also help, once and for all, to secure their future.

The Government remains committed to ensuring that students have access to vital campus services and we make no apology for honouring this commitment here today by reintroducing this legislation. This commitment was recently reinforced as outlined in the Regional Australia Package announced in September 2010, and is particularly important for regional and outer metropolitan universities.

Consultations with the universities in 2008 found that $170 million had been stripped from funding for services and amenities, resulting in the decline and in some instances complete closure of health, counselling, employment, child care and welfare support services.

The impact has been greatest on regional and smaller universities and campuses outside of the metropolitan centres. In regional areas with limited access to services, the university campus offers a focus, and services and amenities provided on regional campuses are accessed not only by university students but by the wider community.

These are fundamental services that help students to navigate university life, achieve success in their studies and enable them to participate in sport and the university community.

Students from regional areas are particularly affected by the loss of student services. Regional students studying at a metropolitan university leave behind the support of their family and local community. Campus services and amenities such as counselling, health services, study assistance, social activities are essential in supporting this group of students in making that transition.
It is students who are being forced to pay the price of the $170 million – both directly and indirectly.

Some universities indicated that they were forced to redirect funding out of research and teaching budgets to support services and amenities that would otherwise have been cut.

Others highlighted price hikes for parking, food and childcare.

This demonstrated that students were paying the price for the removal of Government support for services and amenities on campus.

Universities Australia, the peak body representing the university sector painted the picture clearly in late 2008, stating;

‘Universities have struggled for years to prop up essential student services through cross-subsidisation from other parts of already stretched university budgets, to redress the damage that resulted from the Coalition Government’s disastrous Voluntary Student Unionism (VSU) legislation.’

In its submission to the review, the Australian Olympic Committee noted that there had also been a serious impact on sport:

‘...the introduction of the VSU legislation has had a direct negative impact on the number of students (particularly women) participating in sport and, for the longer term, the maintenance and upgrading of sporting infrastructure and facilities and the retention of world class coaches.’

Since then, Universities Australia and other bodies that have the interests of the students at heart have repeatedly called on the Parliament to pass this legislation.

The Bill makes support universities and students to help undo the damage.

The Bill makes amendments to require higher education providers that receive Commonwealth Grant Scheme funding to comply with new Student Services, Amenities Representation and Advocacy Guidelines.

This means that for the first time universities will be required to implement National Access to Services Benchmarks for all domestic Australian students – in line with the arrangements that already exist for our international students.

These important benchmarks will ensure that all Australian students are provided with information on how to access important health, welfare and financial services and are provided with access to advocacy services.

The Bill also introduces for the first time National Student Representation Protocols to ensure that students have an opportunity to participate in university governance structures.

Let me be clear – the Bill is not a return to compulsory student unionism.

Section 19-37(1) of the Higher Education Support Act 2003, which prohibits a provider from requiring a student to be a member of a student organisation, is unchanged.

The new benchmarks will help ensure students have access to advocacy support services to support student appeals, and vital help for students who may need extra assistance on matters that can be overwhelming and unfamiliar.

They also ensure that universities provide opportunities for democratic student representation, so that student views are taken into account during the decision making process.

This is a value that is reflected in the democratic rights that underpin our nation and community.

Over and above these basic services, representation and advocacy rights, the Bill will also provide universities with the option to implement a services fee capped at a maximum of $250 per year ($254 in 2011 due to indexation) to invest in quality services and amenities.

Universities that choose to levy a fee will be expected to consult with students on the nature of the services and amenities and enhanced advocacy that the fee would support.

To ensure that the fee is not a financial barrier, any university introducing the fee must also provide eligible students with the option of taking out a HECS-style loan under a new component of the Higher Education Loan Program – SA-HELP.

The Bill specifically outlines what the fee can be used to fund. The content of these provisions has been developed in consultation with the higher education sector and other key stakeholders.

In addition the Bill prohibits universities from allowing the expenditure of any funds raised from
a compulsory student services and amenities fee
to support political parties, or support the election
of a person to the Commonwealth, State or Terri-
tory legislatures or to a local government body.
We believe that this is a balanced, practical solu-
tion that enables universities, students and the
government to work in partnership to rebuild
important student supports and services and en-
sure independent student representation and ad-
vocacy.
We believe that these support services are of par-
ticular importance to the vibrancy of regional
campuses and provide essential support for stu-
dents from regional areas.
The Government will continue to work in part-
nership with higher education providers and stu-
dents, and take responsible action to ensure qual-
ity and sustainable student services and represen-
tation into the future.
The Bill will help to secure the future of universi-
ties and the critical role they have in Australia’s
education future.

Debate (on motion by Senator Farrell) adjourned.

CRIMINAL CODE AMENDMENT
(CLUSTER MUNITIONS
PROHIBITION) BILL 2010

FAMILIES, HOUSING, COMMUNITY
SERVICES AND INDIGENOUS
AFFAIRS AND OTHER LEGISLATION
AMENDMENT (BUDGET AND OTHER
MEASURES) BILL 2010

First Reading

Bills received from the House of Repre-
sentatives.

Senator FARRELL (South Australia—
Parliamentary Secretary for Sustainability
and Urban Water) (4.54 pm)—I indicate to
the Senate that these bills are being intro-
duced together. After debate on the motion
for the second reading has been adjourned, I
will be moving a motion to have the bills
listed separately on the Notice Paper. I
move:

That these bills may proceed without formali-
ties, may be taken together and be now read a
first time.

Question agreed to.

Bills read a first time.

Second Reading

Senator FARRELL (South Australia—
Parliamentary Secretary for Sustainability
and Urban Water) (4.55 pm)—I table a re-
vised explanatory memorandum relating to
the Families, Housing, Community Services
and Indigenous Affairs and Other Legislation
Amendment (Budget and Other Measures)
Bill 2010. I move:

That these bills be now read a second time.
I seek leave to have the second reading
speeches incorporated in Hansard.

Leave granted.

The speeches read as follows—

Criminal Code Amendment (Cluster Mun-
tions Prohibition) Bill 2010

I am pleased to introduce the Criminal Code
Amendment (Cluster Munitions Prohibition) Bill
2010.

This Bill includes the legislative measures neces-
sary to give effect to the Convention on Cluster
Munitions.

Australia is a strong supporter of the Convention.

Australia was one of the first countries to sign the
Convention on 3 December 2008 and, once the
appropriate implementing arrangements are in
place, we will proceed to ratify the Convention.

Australia took an active role in the negotiation of
the Convention, consistently with Australia’s long
standing practice of taking part in international
efforts to reduce the humanitarian impact of
armed conflict, especially on civilian populations.

Our active participation in the negotiation of this
Convention ensured a strong humanitarian out-
come that also satisfied Australia’s national secu-
ritv concerns.

The Convention is a remarkable achievement that
came about from recognition by the international
community that the time had come to address the tragic impact of cluster munitions.

The long and short term impacts of cluster munitions on civilian populations are well known. Cluster munitions are primarily used against large target areas. As a consequence, large areas of land can become contaminated with unexploded submunitions. These areas can be left dangerous and unusable long after conflict has ceased.

The Convention bans the use, development, production, acquisition, stockpiling, retention and transfer of cluster munitions, as well as the assisting, encouraging or inducing of any person to do any act prohibited by the Convention.

The Bill will amend the Criminal Code to include the provisions necessary for ensuring that Australian law is consistent with the Convention.

This Bill will add to Australia’s already strong legal framework regarding weapons that cause indiscriminate harm, such as the Anti-Personnel Mines Convention Act of 1998.

There are three main features to this Bill.

First, the Bill will create offences that reflect the range of conduct that is prohibited by the Convention.

The Bill includes a new offence of using, developing, producing, acquiring, stockpiling, retaining or transferring a cluster munition. The Bill will also create an offence of assisting, encouraging or inducing a person to do any of those acts.

An example of conduct that would fall within this offence is where a person provides financial assistance to, or invests in, a company that develops or produces cluster munitions, but only where that person intends to assist, encourage or induce the development or production of cluster munitions by that company.

These new offences will provide a comprehensive legislative scheme to ban the use of cluster munitions within Australia and by Australians.

These offences will carry a maximum penalty of 10 years’ imprisonment for individuals, or $330,000 for bodies corporate. This penalty reflects the serious nature of the offences created by the Bill.

Second, the Bill will create defences to these offences that reflect the range of conduct that is permitted by the Convention. In particular, this will allow Australia to maintain and develop its skills and capabilities in detecting and destroying cluster munitions.

The Convention permits States Parties to acquire or retain a limited number of cluster munitions for the development of, and training in, detection, clearance or destruction techniques, and for the development of counter-measures.

The Convention also allows a State Party to transfer cluster munitions to another State Party so that they can be destroyed.

The Bill will create a defence for persons who acquire or retain cluster munitions for these purposes or for the purpose of destruction, when authorised by the Minister for Defence.

The Bill will also create a defence for persons who transfer cluster munitions to another State Party for the purpose of destruction.

In order to encourage individuals to contact the police or Australian Defence Force in order to surrender cluster munitions, rather than handling the dangerous explosives themselves, the Bill will create a defence for persons who, without delay, notify the police or Australian Defence Force that they wish to surrender cluster munitions.

These defences will enable Australia to maintain its participation in international cooperative efforts to develop and share knowledge on detection, clearance and destruction techniques.

The Bill will, however, continue to allow Australia to maintain cooperative military relationships with countries that are not party to the Convention. The ability to maintain this capability is a fundamental pillar of international security and essential for Australia’s national security.

It is an important part of both the Convention and this Bill.

Importantly, the Convention permits States Parties to continue to undertake military cooperation and operations with countries that are not party to the Convention, subject to some restrictions.
The Bill will create a defence for persons whose conduct is done in the course of the permitted range of military cooperation and operations. Notwithstanding this defence, it will be an offence for a person to use, develop, produce, acquire, stockpile or retain cluster munitions, even in the course of combined operations with countries that are not party. This defence will also not apply if a person expressly requests the use of cluster munitions in a situation where the choice of munitions used is within Australia’s exclusive control. This limitation on the defence will ensure that Australia and Australians will continue to act consistently with the object and purpose of the Convention, even when undertaking cooperative activities with countries that are not obliged to comply with the Convention. A separate defence will protect visiting personnel from the armed forces of countries that are not party to the Convention, while such personnel are in Australia. These individuals are not required to comply with the Convention’s obligations, and are therefore protected – to a limited extent – from the criminal offences created in this Bill. Nonetheless, such visiting forces would not be excused from prosecution if they use, develop, produce or acquire cluster munitions in Australia. This Bill forms one part of the measures necessary for Australia to implement its obligations under the Convention.

In addition to this proposed legislation, the Government will also ensure that doctrine, procedures, rules and directives of the Australian Defence Force are consistent with our obligations under the Convention.

It is now widely recognised that cluster munitions not only create an ever present danger to civilians long after the conflict has ended, but they also present a dangerous impediment to the provision of humanitarian aid as well as post conflict economic and social development. In recognition of this, the Convention seeks not only to ban the use of cluster munitions, but it also requires States Parties to destroy stockpiles of cluster munitions, assist victims of cluster munitions and clear cluster munition affected areas. The Government will comply with the reporting obligations in the Convention, which will ensure transparency and act as a confidence-building measure. And while Australia has no operational stocks of cluster munitions, the Government will continue to support international efforts to alleviate the terrible humanitarian impact of cluster munitions. The Mine Action Strategy for the Australian aid program supports efforts to assist victims internationally, as well as efforts to clear and destroy cluster munition remnants in countries that have been affected by the use of cluster munitions. Under the Strategy, Australia has pledged $100 million from 2010 to 2014 to reduce the threat and socio-economic impact of landmines, cluster munitions and other explosive remnants of war. This contribution will help reduce the deaths and injuries from these devices and improve the quality of life for victims, their adversely affected families and communities. This Bill is a significant step towards Australia meeting its obligations under this important Convention, and will strengthen Australia’s legal framework regarding weapons that cause significant and indiscriminate harm to civilians.
gible contributors. This means that a person with a disability who is a beneficiary of a Special Disability Trust will not lose any of their disability support pension unless their assets exceed a generous assets test threshold.

In 2008, the Senate Standing Committee on Community Affairs found that take-up of these arrangements has been lower than expected. The arrangements developed under the former Coalition Government were not working for people with disability, their families and carers.

In its response to the Committee’s report, the Government committed to a number of changes to Special Disability Trusts in the 2010-11 Budget to provide more flexibility for trust beneficiaries and to make Special Disability Trusts more attractive for families.

Under the current rules, if a person with a disability works for as little as an hour for the ‘relevant minimum wage’ or above, they are not eligible to be a beneficiary of a Special Disability Trust. This Bill addresses this disincentive for people with disabilities to participate in work and the community. It will allow eligible people with a disability to work up to seven hours a week at or above the relevant minimum wage, or to work under the supported wage system, and still qualify as a beneficiary of a Special Disability Trust.

Other amendments will significantly expand what trust funds can be used for, such as all medical expenses (including membership costs for private health funds) and maintenance expenses of Special Disability Trust assets.

Amendments will also allow the trust to make up to $10,000 per year of discretionary spending for the beneficiary’s wellbeing, recreation and independence. This change addresses the previous restrictive rules that trust funds could only be used for specified care and accommodation expenses, and will increase the social participation of beneficiaries.

The changes contained in this Bill will build on the taxation concessions the Government announced in the 2009-10 Budget in response to the Senate Committee’s report.

The Bill will also include amendments to close a loophole in qualification for disability support pension. This loophole has allowed continued payment of disability support pension to people who live permanently overseas but return to Australia every 13 weeks in order to retain their pension.

From 1 January 2011, only disability support pensioners permanently residing in Australia will continue to receive the pension, except under limited and specific circumstances. This change will bring disability support pension into line with other workforce age payments.

Closing this loophole will keep the disability support pension payment system fair and effective. Any pensioners who have a need to travel overseas for short periods will still have access to the 13-week temporary absence rule.

Another measure in the Bill will clarify the eligibility for family tax benefit Part A of some families with FTB children who are studying overseas full-time. If the courses these young people are undertaking do not link to an Australian qualification, it is not clear under the current legislation that they should attract family tax benefit Part A.

This Bill puts that policy intention beyond doubt, and ensures that young people studying overseas full-time are treated for family tax benefit purposes in the same way as full-time students undertaking Australian study.

Lastly, the Bill makes some minor amendments, including to address two minor anomalies arising from the pension reform legislation enacted in 2009. Both amendments are to make sure people get the benefit of the new provisions that they were intended to have.

The ACTING DEPUTY PRESIDENT (Senator Hutchins)—In accordance with standing order 111, further consideration of these bills is now adjourned till the first day of the next period of sittings, which commences in 2011.

Ordered that the bills be listed on the Notice Paper as separate orders of the day.

COMMITTEES

Parliamentary Budget Office Committee

Establishment

The ACTING DEPUTY PRESIDENT (Senator Hutchins)—A message has been
received from the House of Representatives transmitting for concurrence a resolution relating to the formation of the Joint Select Committee on the Parliamentary Budget Office.

"The message read as follows—

Message no. 58, dated 18 November 2010—Proposed Joint Select Committee on the Parliamentary Budget Office, and transmitting for the concurrence of the Senate the following resolution:

Proposed Joint Select Committee on the Parliamentary Budget Office

(1) That a Joint Select Committee on the Parliamentary Budget Office be appointed to examine the proposal to establish a Parliamentary Budget Office (PBO). It is proposed that the PBO will provide information to assist the Parliament in its consideration of matters related to the budget, by undertaking fiscal analysis and other relevant research and by providing policy costings advice. The PBO will also promote greater public awareness of key budget and fiscal policy issues. The Joint Select Committee will inquire into and report on:

(a) the appropriate mandate for the Parliamentary Budget Office (PBO);
(b) the nature of information needed to assist the Parliament in its consideration of matters related to the budget;
(c) the role and adequacy of current institutions and processes in providing this information, and the areas in which additional support is required;
(d) the scope for a PBO to fulfil its mandate in a cost-effective manner; and
(e) bearing in mind these considerations, the most appropriate structure, resourcing and protocols for a PBO, including but not limited to:
   (i) the PBO’s functions and lines of accountability and oversight;
   (ii) the routine work expected of the PBO and the minimum reporting requirements;
   (iii) the protocols for members of parliament requesting non-routine work of the PBO, including the types of work and the rules for prioritising and carrying out these requests;
   (iv) the protocols around access to and disclosure of the PBO’s work and any confidentiality requirements;
   (v) the protocols around the PBO’s relationships with other institutions and processes, including government departments and agencies; and
   (vi) an appropriate level of staffing, appropriate qualifications for staff, and resources to allow the PBO to fulfil its mandate; and

(f) in conducting its inquiry, the Committee may choose to consider the operation and effectiveness of similar offices in other parliamentary democracies and their relevance to Australian circumstances.

(2) That the committee consist of 10 members, 3 Members of the House of Representatives to be nominated by the Government Whip or Whips, 2 Members of the House of Representatives to be nominated by the Opposition Whip or Whips, and one non-aligned Member, 2 Senators to be nominated by the Leader of the Government in the Senate, one Senator to be nominated by the Leader of the Opposition in the Senate, and one Senator to be nominated by any minority group or independent Senator or independent Senators.

(3) That every nomination of a member of the committee be notified in writing to the President of the Senate and the Speaker of the House of Representatives.

(4) That the members of the committee hold office as a joint select committee until presentation of the committee’s report or the House of Representatives is dissolved.
or expires by effluxion of time, whichever is the earlier.

(5) That the committee elect a government member as its chair.

(6) That the committee elect a member as its deputy chair who shall act as chair of the committee at any time when the chair is not present at a meeting of the committee, and at any time when the chair and deputy chair are not present at a meeting of the committee the members present shall elect another member to act as chair at that meeting.

(7) That, in the event of an equally divided vote, the chair, or the deputy chair when acting as chair, have a casting vote.

(8) That 3 members of the committee constitute a quorum of the committee provided that in a deliberative meeting the quorum shall include 1 Government member of either House and 1 non-Government member of either House.

(9) That the committee have power to appoint subcommittees consisting of 3 or more of its members and to refer to any subcommittee any matter which the committee is empowered to examine.

(10) That the committee appoint the chair of each subcommittee who shall have a casting vote only and at any time when the chair of a subcommittee is not present at a meeting of the subcommittee the members of the subcommittee present shall elect another member of that subcommittee to act as chair at that meeting.

(11) That 2 members of a subcommittee constitute the quorum of that subcommittee, provided that in a deliberative meeting the quorum shall include 1 Government member of either House and 1 non-Government member of either House.

(12) That members of the committee who are not members of a subcommittee may participate in the proceedings of that subcommittee but shall not vote, move any motion or be counted for the purpose of a quorum.

(13) That the committee or any subcommittee have power to call for witnesses to attend and for documents to be produced.

(14) That the committee or any subcommittee may conduct proceedings at any place it sees fit.

(15) That the committee or any subcommittee have power to adjourn from time to time and to sit during any adjournment of the Senate and the House of Representatives.

(16) That the committee may report from time to time but that it present its final report no later than 31 March 2011.

(17) That the provisions of this resolution, so far as they are inconsistent with the standing orders, have effect notwithstanding anything contained in the standing orders.

Ordered that the message be considered immediately.

Senator FARRELL (South Australia—Parliamentary Secretary for Sustainability and Urban Water) (4.57 pm)—by leave—I move:

That the Senate concurs with the resolution of the House of Representatives contained in message no. 58 relating to the appointment of a joint select committee.

Question agreed to.

Membership

The ACTING DEPUTY PRESIDENT (Senator Hutchins)—I have received a letter from a party leader seeking the appointment of senators to a committee.

Senator FARRELL (South Australia—Parliamentary Secretary for Sustainability and Urban Water) (4.57 pm)—by leave—I move:

That Senators Cameron and Faulkner be appointed as members of the Joint Select Committee on the Parliamentary Budget Office.

Question agreed to.
EDUCATION SERVICES FOR OVERSEAS STUDENTS LEGISLATION AMENDMENT BILL 2010

Report of Education, Employment and Workplace Relations Legislation Committee

Senator POLLEY (Tasmania) (4.58 pm)—On behalf of the Chair of the Standing Committee on Education, Employment and Workplace Relations Legislation Committee, I present the report of the committee on the Education Services for Overseas Students Legislation Amendment Bill 2010 together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

COMMITTEES

Community Affairs Legislation Committee

Reports

Senator POLLEY (Tasmania) (4.58 pm)—Pursuant to order and at the request of the Chair of the Community Affairs Legislation Committee, I present reports on schedules 2 and 3 of the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Budget and Other Measures) Bill 2010 [Provisions] and the National Health and Hospitals Network Bill 2010 [Provisions], together with the Hansard records of proceedings and documents presented to the committee.

Ordered that the report be printed.

Procedure Committee

Report

Senator FARRELL (South Australia—Parliamentary Secretary for Sustainability and Urban Water) (4.59 pm)—I move:

That the recommendation of the Procedure Committee in its fourth report of 2010, be adopted and operate as a temporary order from the first sitting day in 2011 till 30 June 2011.

Senator SIEWERT (Western Australia) (4.59 pm)—The Greens are very pleased to see the tabling of this particular report by the Procedure Committee. This is an area of reform that we have actively pursued over the last few years, as people in this place will be well aware. We raised it formally with the Procedure Committee in September 2009. The temporary orders are the practical implementation of the pursuit of this and also of the Greens’ agreement with the ALP to form government. The temporary orders require that at least two hours and 20 minutes are dedicated to the debate of and vote on private members’ bills—a fixed and fair allocation of time for Independents’ and minor party members’ business in both houses every full sitting week. The agreement stated 2.5 hours in each house. The House of Representatives has been operating under a new standing order for some weeks, and I think we all agree it has brought a very diverse range of issues, from a broad range of members, to the chamber for consideration.

This reform brings the Senate into line with comparable jurisdictions, such as the United Kingdom, Canada, New Zealand and the New South Wales Legislative Council, all of which have mechanisms in place for debating private members’ business. Until now, the consideration of private senators’ business in this place has been ad hoc, to say the least, and limited. We believe this reform is a welcome development that we intend to make sure is used effectively. The Greens believe it is the prerogative of all elected representatives to bring forward for debate issues which are of importance to them and their constituents. My fellow Greens senators are certainly looking forward to bringing on debate and voting on many bills that we have already introduced in this chamber. We look forward to the temporary orders commencing in the new parliamentary year, next year,
although we do not yet know when that starts.

I thank government senators—in particular Senator Evans and Senator Ludwig—opposition senators and the Procedure Committee. I also thank Senator Fifield, who actively participated in trying to find some workable arrangements. The committee had to look at all the options to work out what would work best. I thank senators for their meaningful engagement in the process. I look forward to this temporary order being in place next year and being able to debate private senators’ bills so that we can debate issues in this chamber that are not always on the government’s agenda. I commend the temporary orders to the chamber.

Senator FERGUSON (South Australia) (5.02 pm)—I also commend this report to the Senate. The main thrust of this report is to try and accommodate private members’ bills and give them a dedicated timeslot for debate in this chamber. It is important because, in the past, governments and those managing the government’s program have always been able to say that debates on private members’ bills are only possible if time is allocated by the government. It is a move in the right direction to allow private members’ bills to be debated in this chamber.

It is only a temporary order and will require a lot of goodwill between the government, the opposition and the minor parties to make sure that it works smoothly. One thing we could not ensure was that private members’ bills or government bills were treated equally in this place. Initially there was some thought about perhaps putting shorter time limits on speeches or guillotining debate. A whole range of options were put forward. In fact, a private member’s bill is just as important as any other bill that comes into this place and it must be treated equally. A senator may hope that their private senator’s bill reaches fruition in a short time, but that would only be able to be done by agreement, in the same way that many other bills are put through this place, particularly towards the end of the session. By agreement, they are dealt with in an expeditious manner.

I look forward to the trial. I think it can work but, as I said before, it will take a lot of goodwill for it to be as successful as many senators, particularly those from minor parties, would hope it to be. Let’s see how it works. We have six months in the first half of next year to see how it progresses. Individual senators can still only expect to get the opportunity to debate their bills in a ratio of proportionality in this chamber, or close to proportionality—it will not always be exact—but I am sure that, if we go about it in the right manner, this can be a very successful addition to the procedures that we follow in this place. I certainly commend this report to the Senate.

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers) (5.05 pm)—The government also agrees with the recommendations of the Procedure Committee. We should all thank the members of the committee. They have worked well together to deliver this reform to the operations of the Senate. The essential purpose, as we know, is to allow private senators’ bills to be debated in an orderly way. That is agreed by all as a sensible way forward. The report said:

The committee emphasises that good will is necessary for the effective operation of the Senate and for the implementation of any procedural change in particular.

We concur with the Deputy President’s contribution earlier. The government welcomes this reform, which we believe will result in the more effective running of the Senate chamber. I commend the report to the Senate.

Question agreed to.
Accordingly standing orders 55, 57 and 59 were amended to operate as a temporary order as follows—

Temporary order—Consideration of private senators’ bills

(1) That:
(a) standing orders 55(1), 57(1)(d) and 59 be modified as follows to provide for the consideration of general business orders of the day relating to bills on Thursdays from 9.30 am for not more than 2 hours and 20 minutes; and
(b) this order operate as a temporary order from the first sitting day in 2011 till 30 June 2011.

55 Times of meetings

(1) The days and times of meeting of the Senate in each sitting week shall be:
Monday 10 am – 6.30 pm, 7.30 pm – 10.30 pm
Tuesday 12.30 pm – adjournment
Wednesday 9.30 am – 8 pm
Thursday 9.30 am – 8.40 pm

57 Routine of business

(1) The routine of business shall be:
(d) On Thursday:
(ia) General business orders of the day for consideration of bills only for up to 2 hours 20 minutes
(i) Petitions
(ii) Notices of motion
(iii) Postponement and rearrangement of business
(iv) Formal motions – discovery of formal business
(v) Consideration of committee reports under standing order 62(4)
(vi) Government business
(vii) At 2 pm, questions
(viii) Motions to take note of answers
(ix) Any proposal to debate a matter of public importance or urgency
(x) Not later than 4.30 pm, general business
(xi) Not later than 6 pm, consideration of government documents under general business
(xii) Not later than 7 pm, consideration of committee reports and government responses under standing order 62(1)
(xiii) At 8 pm, adjournment proposed
(xiv) At 8.40 pm, adjournment.

(2A) If a division is called for on Monday before 12.30 pm, the matter before the Senate shall be adjourned till after that time.

59 Government and general business

Government business shall take precedence over general business, except that general business shall take precedence over government business on Thursday as follows:

(a) from 9.30 am, for a period not exceeding 2 hours and 20 minutes, general business orders of the day for the consideration of bills shall be considered; and

(b) from not later than 4.30 pm, for a period not exceeding 2 1/2 hours, and general business orders of the day shall take precedence over general business notices of motion on alternate Thursdays.

TELECOMMUNICATIONS LEGISLATION AMENDMENT (COMPETITION AND CONSUMER SAFEGUARDS) BILL 2010

Second Reading

Debate resumed.

Senator WORTLEY (South Australia) (5.07 pm)—The package of reforms incorporated in the Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2010 strengthens the regulator’s ability to enforce existing consumer safeguards, mitigating the risk of Telstra re-
It is the government that has seized the moment. The Labor government has demonstrated the vision and the determination our nation needs right now. It is the Gillard Labor government that, despite the best efforts of those opposite to wreck and destroy, is determined to provide affordable, reliable, future-proof broadband to people in the city and the bush. It is this government that has accepted and is acting on this crucial challenge.

To conclude, the Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2010 is designed to reshape regulation in the telecommunications sector in the interests of (1) consumers, (2) business and (3) the economy more broadly. Its implementation will position the telecommunications industry to make a smooth transition to the NBN environment as the network is rolled out. It includes measures to streamline the regulatory framework to enhance competition and, importantly, to better protect consumers. I commend the bill to the Senate.

Senator LUDLAM (Western Australia) (5.11 pm)—I was expecting some contributions from the National Party, but they do not appear to be in the chamber. I will, however, rise to make some comments on the Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2010. This debate has been a very long time coming. Senators will recall that it was originally scheduled for October 2009. A series of procedural blocking tactics by the coalition prevented this debate from happening more than a year ago. I rewrote my speech early in March, when it looked as though the debate would finally happen; but, in a tactical masterstroke, the coalition put 400 people on the speakers list and paralysed the Australian Senate for several days. I was disappointed but sympathetic when the government withdrew the bill. Given that this
place costs something in the order of $1.5 million per day to run, you need to choose your issues carefully if you are going to move a filibuster to bring it to a standstill.

Since Mr Turnbull took over the portfolio there has been a welcome change of direction, as evidenced by the vastly more reasonable list of speakers that confronts us today. We have also seen a recognition by the coalition that structural separation of Telstra is an essential stepping stone toward a healthier telecommunications sector. But there is a reason that we are having this debate now, 13 months after it was scheduled. The coalition’s strategy, passed from Senator Nick Minchin directly to Tony Abbott, is to sabotage and delay the rollout of the NBN, with the ultimate objective of destroying it. As recently as September, post election, Mr Abbott was reported as saying that Mr Turnbull had ‘the appropriate technical expertise and business experience to entirely demolish the government on this issue’—not a lot of ambiguity there. Mr Abbott brought other priorities into the 2010 election campaign, and he funded his election commitments by cancelling the budget for the NBN and replacing it with a bucket with $6 billion worth of corporate handouts in it. It was a bucket held together with rubber bands and technical illiteracy, which was rightfully condemned by everyone who chose to offer an opinion. I am still deeply impressed by the spectacle of the Liberal Party and, to my lasting disbelief, the National Party, having as their key election initiative to cancel the rollout of fast broadband to regional Australia. This miscalculation played a key part, I think, in the Gillard government’s ability to form this minority government.

One benefit of the NBN proposal playing such a key role in the election campaign is that telecommunications are now firmly on the national agenda, which is probably the only good to come from this bill being debated a year late.

The legislation before us is the first real attempt to deal with fundamental regulatory issues and the market structure of the Australian telecommunications sector, which could politely be described as dysfunctional. At the outset, let us speak very plainly about why we are here, at the end of the first decade of the 21st century, debating this legislation. It is because we are engaged in the first stage of fixing a privatisation debacle.

The telecommunications market in Australia for decades has been defined and shaped by the market power of the incumbent, Telstra. The industry still retains some characteristics of the time when telecommunications were seen as an essential service to be provided for all Australians and government provision was seen as the most economic and equitable way to do this. There was an unspoken and bipartisan acknowledgement that the private sector had neither the capacity nor the strategic interest in developing national telecommunications infrastructure. In a country as vast and dispersed as Australia, such an endeavour was a proper role of the national government.

The early 1990s saw a profound shift away from this world view toward one which saw the principles of competition assume fundamental importance and the whole framework of national competition policy established. This rapid ideological shift brought with it a range of sweeping and largely untested assumptions. The most important of these is that the shareholders’ interests will align perfectly with the public interest and market forces will project services cheaper and more efficiently than a stodgy and slow-moving public utility. Modern Australian history is littered with sad reminders of what happens when that ideology collides with reality.
In the example we are considering today, there is of course a strong divergence between the public interest in a fast, inexpensive, open-access broadband network and Telstra shareholders’ interest in achieving high rates of return from the advantages delivered by its incumbent position as the monopoly owner of much of the infrastructure on which its competitors depend. The unthinking belief in the magically redeeming powers of competition and the blind ideology of frictionless free markets culminated in the full privatisation of Telstra, which the Greens, the Democrats and the ALP opposed at the time. And so the sector today is a fractured and unworkable amalgam of these two worldviews—a large, vertically and horizontally integrated company, built over decades of public investment and then sold off and left with enormous power to make its way in the marketplace.

It is no secret to anyone in the industry that Telstra has used its incumbent position to do what its directors are obliged to do by law: leverage its monopoly position to maximise its profits and extend its market power into new areas. On 11 November 2008 Telstra appeared before the Senate Select Committee on the National Broadband Network to express its views, during which Mr David Quilty said:

The bottom line for us is that we have to act in the interests of our shareholders. We cannot do anything that we do not consider is in the interests of our shareholders. There is no doubt in the mind of Telstra management, and all of the analyst reports concur, that further separation of Telstra is not in our shareholders’ interests. We simply cannot contemplate it.

What an extraordinary change between November 2008 and November 2010. In other words, Telstra was more than comfortable with the market power it was able to exercise and could not see any reason to want to change. This is partly an outgrowth of the corporate culture exemplified by the take-no-prisoners approach of Sol Trujillo and his team, but it also reflects a deeply embedded legal obligation: directors of corporations have to put shareholders first, or they betray their fiduciary obligation to act in their shareholders’ interests.

Today we are here to talk about the public interest. A basic principle of competition policy is that in a market as dominated by a single incumbent as telecommunications is in this country, a wholesale provider should not compete with its own customers. There are simply too many opportunities for monopolistic behaviour. Whole slabs of the Trade Practices Act are dedicated to trying to prevent exactly the kind of behaviour that has characterised this sector for as long as most people can remember.

This bill is the first real attempt to deal with this textbook case of what happens when the public interest diverges from corporate self-interest. When I say ‘the public’, I do not refer only to the roughly 1.4 million Telstra shareholders who took up equity in the company on the three occasions in which tranches of stock were put up for sale; I refer to the 22 million Australians for whom telecommunications are now an essential service.

Australia now has some of the most expensive fixed line and broadband prices in the OECD. The most recent data indicate that Australian small-business or home-office customers are paying more than 30 percent above the average for this group of countries. We are paying among the highest prices in the OECD in all speed categories according to a 2008 survey. And we are a vast distance behind in broadband speeds when compared to leading countries, including Japan and Singapore.

Last year, the Telecommunications Industry Ombudsman dealt with half a million
complaint issues. Complaints figures detailed in the TIO annual report for 2008-09 show 178,000 compliance issues about mobile phone services alone. That was an increase of 107 per cent on the previous year. The rising discontent is not just at the user end. The ACCC reported in March that, since the inception of the negotiate-arbitrate approach to resolving disputes between Telstra and access seekers interested in offering rival retail services over Telstra’s network, more than 150 access disputes have been lodged with the ACCC. The disputes range across monthly access charges, connection charges and managed network migration or service qualification charges as well as an array of non-price terms, and they are often protracted and expensive as all procedural avenues are exhausted at great expense to all parties. By contrast, in the gas and electricity sectors where the natural monopoly facility is separated from the contestable market elements, and revenue or price is set by the regulator—that is, sectors that operate in the way that the government is seeking to model the telecommunications sector if this bill is carried—four access disputes have been lodged with the ACCC over the same period.

There are proposals in this legislation which would allow the minister to issue binding rules of conduct to replace the voluntary industry codes which have in some cases been shown to be ineffective. But these powers rely on the minister exercising them—for end-user protection and customer service to improve, this bill must only be seen as the first step. Our national end-user advocate, ACCAN, has pointed the way with Consumers first: smart regulation for digital Australia, a report by the UTS Communications Law Centre published earlier this month. On release of that study, ACCAN chief executive, Teresa Corbin said:

The current self-regulatory system, with its excessive rules, exemptions and exclusions, has failed, …Without a new approach to protection, consumers are going to be left with providers that still don’t care and won’t change. That new approach can begin today if the minister makes good use of the leverage over the industry that he has written into this bill and that the Greens have approved.

While negotiations between Telstra, the government, the ACCC and NBN Co. continue behind the scenes, there is broad agreement that structural separation with fair compensation for Telstra’s traffic and physical assets provides the simplest and most equitable way forward. Everyone is now on board with this proposal—even Telstra, which spent six months to one year opposing the bill and then changed tack earlier this year when it became apparent that what it had earlier described as a gun to the head was in fact a lifeline.

The proposal is for the publicly owned National Broadband Network to take over Telstra’s wholesale traffic and much of the physical infrastructure of poles, wires and ducts over which telecommunications services are delivered. In return, Telstra is compensated for handing over these assets and relieved of the burden of working out what to do with a decaying fixed-line copper network that is delivering falling revenues and hurting its share price far more dramatically than any regulatory uncertainty generated by this bill.

After a long period of negotiation and under a framework that is still largely opaque, the government has arrived at a heads of agreement which will see $11 billion handed over by the taxpayer to bring Telstra’s wholesale network back into public hands. It is hard to imagine a more complete failure of a privatisation process than this one, which has resulted in this parliament having to bring the system back into the public domain.
At the end of 2008, in our minority report to the first interim report of the Senate Select Committee on the National Broadband Network, the Greens urged the government to consider:

... taking a majority equity stake in the National Broadband Network and operating it as a competitively neutral, open-access network.

Although that is effectively the model we have arrived at, until very recently a number of issues remained outstanding. Most obvious was the government’s incomprehensible proposal to sell down the government’s stake in the NBN within an automatic time frame based on nothing more than a test of whether the market would deliver a fair price for such a sale. After going to all the trouble of bringing the network back into public hands after several years of quite evident market failure, the Greens can see no justification for repeating the privatisation debacle all over again with the NBN.

Over a period of several months, the Australian Greens have been negotiating to put some checks and balances into the NBN bill, which I believe the government will introduce later this week. We sought to remove the automatic triggers for privatisation that were built into the NBN exposure draft bill. Whatever our views might be on the wisdom of privatisation, it is hard to imagine why parliament would want to compel a future government to do so, whether it wanted to or not. The government has agreed with this proposal, and the privatisation provisions in the NBN bill when introduced will be entirely discretionary. If a future government is happy with the operations of the NBN, there will be no obligation to sell it. If, on the other hand, there is a will on the part of the government to sell the network, the government will be required to conduct a full public interest test. The amendments that the Greens propose to the Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2010 include a provision for the establishment of a joint parliamentary committee and a detailed reference to the Productivity Commission to examine the impacts not just on the Commonwealth balance sheet but also on the competitive structure of the market, the implications for governance, the consequences for social inclusion and so on.

The opposition have been going on at some length today both here and in the other place about why we would support Productivity Commission referral at the end of the NBN buildout rather than at the beginning. But our proposal is not for a cost-benefit analysis—we have no issue whatsoever with the Productivity Commission’s coming on board and offering its expertise. The issue is not with the PC; it is with the validity, or the point, of doing a cost-benefit analysis. What we are proposing is that at the end of the buildout there be a comprehensive public interest test which will not rely on formula but on research. The government has agreed to the Greens’ recommendations on privatisation so that, if a proposal for privatisation comes forward, at the bare minimum the government will undertake a study to determine whether or not privatisation is a good idea. If, subsequent to undertaking this public interest test, the government still wishes to proceed with the sale, the decision will need to be approved by parliament through the mechanism of an instrument that either chamber can disallow. Having set these basic checks and balances in place, the Greens are more comfortable with the idea of handing over $11 billion, or whatever the final figure ends up being, to bring Telstra’s wholesale assets back into public hands. Our objective has been to make it as difficult as possible for any future government to repeat the debacle of the sale of Telstra—if it is to happen, we must at least be doing it with our eyes open.
This brings forward some of the recommendations, which were quite strongly worded, in the implementation study that KPMG-McKinsey produced. They said:

The privatisation of NBN Co will significantly reduce the Government’s subsequent capacity to influence its operations and market conduct. At the same time, pressure from private shareholders and the appointment of a new board representing them will create an incentive for NBN Co to focus on commercial returns to the exclusion of other objectives.

The authors of the implementation study had very serious concerns about the competitive outcomes if the NBN Co. was privatised. The Greens share these concerns—and we think they were sensibly stated in the implementation study—but we also have much broader concerns. They go to governance issues, social inclusion issues and a whole range of other issues which are encompassed in our amendments to the bill providing for a reference to the Productivity Commission. There have been similar comments and concerns raised within the industry by Optus as well as by the Competitive Carriers Coalition, which represents the more diverse end of the mid-tier and smaller service providers operating in Australia. Let us not repeat history. It is my hope that the amendments we have secured to the NBN bill will never be brought into play and that by the time the NBN has been built there will be a public and political consensus that essential service, natural monopoly infrastructure should stay in public hands and be operated in the public interest. In the meantime, it will be very good to know the Greens’ amendments are in the legislation.

Most of the coalition’s contributions to the debate thus far have centred on the rights of Telstra’s 1.4 million shareholders, whose interests do need to be considered in this rare exercise of parliamentary intervention in a dysfunctional market. I stress that the Greens are not out to get Telstra or its shareholders, and I have no doubt that this process can deliver a fair outcome for Telstra that will see it take its rightful place in a rapidly expanding telecommunications market. A number of issues are worth considering: firstly, whether shareholders might have seen this intervention coming and, secondly, whether in retrospect the current process is necessarily all bad for Telstra. The T3 share offer document, in 2006, included this passage:

The real risk with operational separation, in Telstra’s opinion, lies in the power of the Minister to determine the way Telstra conducts its business by directing it to vary its operational separation plan, subject to the aims and objects of the legislation which are very broad. These regulatory discretions could in Telstra’s opinion be used with a significant adverse effect on Telstra.

Every single share offer document contained some kind of warning to the shareholders that there was a material regulatory risk that the government could move some form of what we eventually saw. That is fair warning—shareholders were made aware of the potential for future changes to the regulatory framework, just as they should have been.

We as legislators need to consider the interests of all 22 million Australians in vibrant and healthy telecommunications markets, not just the interests of shareholders in one particular company. This naturally raises the question of whether this process is automatically bad for Telstra. Keep in mind that this debate is happening a year late, during which time Telstra shares have dropped by approximately 25 per cent. I wonder if Telstra’s shareholders realise that if the coalition’s delaying tactics had not been so successful we would be a year further down the track with this process than we are now, and Telstra could have avoided 13 months of uncertainty.

This bill sets in motion a key microeconomic reform that the Greens would support.
in principle even if the NBN did not exist. In the context of the government’s refusal this week to hand over the business case, there is no point in arguing over whether or not this bill is linked to the NBN, because of course it is. But we agreed a year ago that this bill should be debated because, even if this proposal for the NBN was not on the table, the creation of a government owned, open access wholesale telecommunications network is, we believe, in the public interest.

I will conclude with some reminders of what has been consistently lost in this debate—that is, what we will use this network for, because we have heard almost nothing about that during this debate. Once this bill has cleared the parliament, I look forward to moving past the overheated clash of political or economic self-interest that has skewed this debate from the beginning. I look forward to talking about what widely distributed Western Desert Aboriginal communities will do with this technology when it finally reaches them; what their health workers will make of remote telemedicine applications; how their administrators will manage when they do not have to download PDF files over a dial-up connection; and what artists, elders and cultural practitioners will do with live videoconferencing across thousands of kilometres of country.

I look forward to engaging more directly in the Gov 2.0 debate to examine how this technology can unlock more direct democracy in Australia, create more diversity in our media landscape and amplify voices at the margins of Australian society.

I look forward to talking with the small business operators who have thought through the consequences of having 469 million broadband users coming online across China, which is the estimated online population there by the end of 2010. Elsewhere in the region there are opportunities of a similar magnitude. We have been considering this debate in isolation from the fact that, at the other end of the line, it will not just be your kids working shifts in Karratha but planet earth.

I do not know whether it is still true that half the population of the world is yet to make its first phone call. There is no doubt that the digital divide is still deeply entrenched and maps perfectly onto areas of poverty and disadvantage whether in Australia or overseas. But is it possible to unlock the transformative educational and community empowerment properties of instantaneous communications between here and Tokyo, here and Nairobi or here and the Swat Valley?

We know there are serious challenges in front of us, and this project brings with it enormous risks. It carries risk not just because of the price tag but also because it attempts to unscramble the mess that privatisation of a vertically integrated incumbent set in train. It carries risk because the government still imagines it can somehow filter the network, and the Attorney General hopes to more effectively spy on all of us over the network. As the government’s inquiry into cybercrime or the cybersafety committee has identified, there are real and present dangers of becoming immersed in these networks if you go in without your eyes open.

This bill should have been carried a year ago. This proposal carries risk and leaves the government open to sustained attack from an opposition that I think has made the dramatically wrong call when it decided to destroy the NBN. The risk arises because it is one of the few genuinely bold initiatives of the Rudd-Gillard period in government. We will be supporting this bill and we look forward to its passage later this week.

Senator JOYCE (Queensland—Leader of the Nationals in the Senate) (5.31 pm)—
rise to speak on the Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2010. You can believe in a broadband without believing in an NBN; in fact you have to. I have to commend Senator Ludlam for the research at the front end of his speech, which was quite exemplary, but there are still some major concerns. On the trade practices position, you have to note that especially 577BA—and I take this as research from the parliamentary digest—allows the ACCC to accept such undertakings which are currently likely to be in contravention of the Trade Practices Act. This is just one example of where we need to have greater scrutiny of what exactly is going on here.

Another issue which you must take into account, apart from theatrics, is that the other day the minister responsible for this was unaware of the NBN’s connection to the act. The reason he is unaware, I would suggest, could be incompetence but it could also be that certain sections of this have appeared at a late time and nature. Therefore we need to be far more diligent, because if the minister does not understand it then how on earth are we going to have the proper amount of time to diligently go through this?

There are strong concerns held about legislation which, in its dire haste to be pushed through, has allowed, I would suggest, Telstra to have unreasonable bargaining power in exactly how this thing is constructed. It is constructed in such a way that their engagement will be excluded from the ACCC and in future that gets handed on. It was going to be privatised but apparently the Greens have changed all that. It goes to show the power of the Greens. The Greens have completely changed the government’s direction and put it on its head.

The reason the NBN was going to be privatised is that we had to try and pay back some of the debt. But we are not paying back any of the debt now because we are not selling it—so we are stuck with the debt. Obviously, if it is going to be privatised it just goes to show that the business plan on stringent analysis conducted by the Productivity Commission just would not stand up. It will not stand up, because even the McKinsey report only talks about a six per cent return. Why on earth would you go out and invest $43 billion in something with massive risks if you can put it in the bank and get 5.45 per cent on bond rate? If you put it in a retail bank, you will get better than the return that the NBN is going to give you. There must be bells ringing here that this thing just does not stack up. The only way you can make it stack up is you have to jack up the revenue stream, which means you have to jack up the price of phone calls. If you are not going to jack up the price of phone calls then you are going to have to jack up the tax rate to try and cover it. There are fundamental flaws right at the front end.

We also heard Senator Ludlam say something that was not right. He talked about how they were buying back for $11 billion the structural assets of Telstra. They are not; they are leasing them. It is a long-term lease but it is a lease. We are not buying the pipes and the pits; we are leasing them. I think it is over 21 years, if my memory serves me correctly. This is a day in the park for Telstra. They have got a long-term lease on an asset, which at the end of the day they own, and if it is of no value then they have done very well out of it anyhow. They have done far better out of this lease then they would have out of the ownership. This is part of the reason that Telstra have come round.

Telstra have paid a very astute game because they have got the government exposed. The government are falling over themselves to get this through—and, yes, you did tell the Independents and everybody else that this
was the reason they had to vote for you. That is what we heard over and over again: ‘It’s all about the NBN.’ Yes, you have got a great investment in trying to make sure that the NBN stacks up. If it does not stack up, the reason you are there on the Treasury bench is implausible, because this was the warrant you gave to people.

There are so many other things that we should go through but, like most things, when you are talking to a person who is about to engage in a project, you must have a bit of a retrospective about what this person does and whether they have the competencies to do it. We have seen the minister on prime time television show that he does not even understand his own act. But the fault does not just lie with him. I want to go through a few things—and at the end of this list I will ask you a very serious question about whether you believe that these are the people who should be building a telephone network.

The people building the telephone network are also the people responsible for Fuelwatch; GroceryWatch; the war on obesity; the war on homelessness; the war on executive salaries; the war on inflation; Building the Education Revolution mark I; the biggest budget deficit in our nation’s history; the biggest debt in our nation’s history; the ceiling insulation fiasco; the Green Loans fiasco; the computers in schools fiasco; the emissions trading scheme, which was supposed to be the greatest moral challenge of our time but was ditched and the minister became the minister for finance; the idea to cool the planet from a room in Canberra; boat people; the new ETS, the East Timor solution, which they did not actually talk to the government in East Timor about; the citizens assembly, which was a randomly selected 150 people to run climate policy; cash for clunkers, where every young buck could find an old wreck behind a shed and cash in on it; the Strategic Indigenous Housing and Infrastructure Program, where they were meant to build 750 homes but only built six; the hospital takeover, where we were going to take over the hospitals by July 2009 but it never happened; GP superclinics, where they were supposed to build 36 but none will open till next year; childcare centres; schools; and equal pay for women. They are just a few examples for this job application. These are the people who are about to engage in the largest infrastructure project in our nation’s history and build a new telephone company. Call me old-fashioned, but I have some concerns—I really do. What we see now is this haste as the government ramps up the momentum and the pressure is on to make this thing stick together. But it just cannot stick together; it has holes all through it.

The only way we can really get to the bottom of this is, as the Prime Minister said—and I hate to quote her—to ‘let the sun shine in’. That is a sure-fire cure for tinea, but it does not seem to be doing much around here. We must let the Australian people have fair access to the information. In his contribution Senator Ludlum said it is ‘their money’. No, it is not actually the taxpayers’ money; we are borrowing the money. We do not have money anymore; we are $172.8 billion in gross debt. So we are going to borrow the money for this, but the taxpayers will have to pay that money back. They will have to hock themselves up to the eyeballs before they tip themselves over the edge, so we should at least give them a fair capacity to understand what they are getting themselves in for.

Even on the government’s estimates, which are always wrong—we saw that in the Building the Education Revolution program—we are going to borrow $26 billion to $27 billion. A word of caution: if we were to put that on the debt we have at the moment, we would have to introduce another appropriation bill because we would have passed
our limit of $200 billion. By the way, we stuck another $2.8 billion on that debt last week, in just one week. No-one seems to be worried about that. It is fascinating. I am a little old bush accountant, but that just scares me to death. Anyway, if we stuck that money on top of the debt we have at the moment, we would have to introduce another appropriation bill because we would have exceeded our $200 billion limit, which in your initial budget forecast you said we would not reach until 2013-14. We look awfully like getting there in around March or April next year, and probably earlier. If we keep going at the rate we did last week, it will happen much earlier.

It is not that the coalition have some pathological dislike of broadband; we do not—we actually proposed a broadband policy ourselves. The difference is that you must cut the cloth to fit the wearer. You must only borrow money that you think you can repay. We are not paying for this project with cash; we will be using money from China, the Middle East and everywhere else. The concern the Australian people have is just how much debt this government is willing to put us in.

Yes, there are benefits to broadband. I am not suggesting there are not, but, if you were to put an opportunity cost against it, would there be the same benefits you would get from inland rail, new port infrastructure, new roads or new airports? When you stack it up against other things, is it the best bang for your buck? That question also has to be asked, by people, to be honest, whose job it is to deliver such forensic analysis—the Productivity Commission. Why do the Labor Party have this passionate dislike of an independent authority to oversee what they stand behind as their biggest reason to exist—their political raison d’etre?

We are now in very unusual territory. Now that the Greens have decided that we will not actually be selling the NBN but keeping it, shouldn’t Mr Swan now trot out the front and give us a little lecture about how we are going to pay this money back? Wouldn’t that be a reasonable thing to expect to happen today? Mr Swan could walk out the front and say: ‘Folks, it looks like we’re going to have ourselves another $27 billion or $30 billion worth of debt. We were going to try to get it back by selling the show, but we can’t sell it anymore because we are held to ransom by the Greens and this is my intention of how we are going to pay it back’—because someone is going to pay this money back. That discussion has not been had with anybody.

When can we expect to see this fiscal angel descending from heaven to pay all these debts back? This is a discussion that is just not had because, basically, the government—the same government that gave you that whole litany from the war on obesity to 190 house fires in the ceiling insulation program—is totally and utterly incompetent and becoming a little dangerous in where it is going.

One of the things that I heard Senator Ludlam talk about was getting broadband fibre to crucial parts of the economy such as schools and hospitals. If that was all we needed, we would not be about to invest $43 billion. It will cost $43 billion because we are about to install broadband into 93 per cent of Australia—so they tell us. I do not even know whether 93 per cent of Australia wants it, so why are we doing it? I know for certain that they are not prepared to pay for it from what we have seen thus far with the testing in such places as Tasmania. I know for certain that in many areas they are going to be getting it where there is probably an optic fibre already approximate to them already delivered. There are probably multiple ones. If we were just talking about getting to
remote areas, if we were talking about ringroading, if we were talking about a deliberative strategy of getting optic fibre to inland hospitals and inland schools, I would bet you that we would be up for vastly less than $43 billion. It was the coalition that put up a broadband policy and the whole premise of it was that we recognised the financial position we were in and we were trying to make sure that we did not take the nation to a precarious position. That seems to be the Labor Party’s trick.

What is the process? The minister has to come in and tell us and the Treasurer has to announce how they are going to pay this money back. They are always great in telling you that in many moons time everything gets better. In many moons time all the debts will be paid back. But you look at how they are actually acting now and you know that that is just a flight of fancy. They are just tumbling down the tube. They have given up the fig leaf of some mechanism mitigating the extent of the debt that we were going to get ourselves into—that is, that they were going to transfer the asset once more back into cash to try to pay some of the debt back—so we are just going to be holders of the debt.

A main reason in the debate that brought about a move for the privatisation of Telstra—for better or for worse, it happened—was that we needed money to put against Labor’s previous debt. We had $96 billion last time and we needed money to put against that previous debt. Whether that all went against it or some of it went against it, that is a discussion piece which many people argue about. But the point was that if the money had not come from Telstra then we would have had to have found money from elsewhere to pay the debt or we would have been able to use that money to put on other things. We do not have any of those assets anymore. Telstra was worth $45 billion. There are no more of those assets about. The idea that we would create a telephone company and then hope and pray that it is an appreciating asset and not a depreciating asset and then realise that as a technology races ahead it might become a superfluous asset, a stranded asset—to realise that you are not buying the pipes and pits, you are leasing the pipes and pits, and to realise that where we are at the moment is not in a position of having $20 billion and cash in the bank but instead a position where we are absolutely maxed out with debt—means that this is an extremely foolish proposition. When we go forward on a proposition like this and find that we have a minister who cannot even answer simple questions about the substantive details of the legislation that he has brought into this parliament you are left absolutely no confidence whatsoever.

I hope that the Greens and the Independents, who have done their homework on this, take the next step. You are not going to get anywhere with the Labor Party. They have gone to the dark side and you will never get them back. I hope the Greens and the Independents take the next step of what is diligent assessment of this project—and diligent assessment is always done at the start. Understand the signs that have been sent to you when people try to stitch you up into six-year confidentiality agreements as a politician. Understand that that is not usual circumstances around here. I do not know the last time politicians were asked to sign a six-year confidentiality agreement. I cannot think of it. It is another little thing to be put on the end of the list of Labor Party fiascos—the idea of new Julia, old Julia, real Julia, fake Julia, ‘six-year confidentiality agreements to talk about’ Julia. If we do not get this right then the pain that you deliver back to the Australian taxpayers will be far in excess of any joy they get from downloading movies quicker.
Senator BACK (Western Australia) (5.49 pm)—This is an incredibly important issue. It is one that should not be lost on the Australian community. Should it be successful it will be one of the greatest expenditures, if not the greatest, in terms of infrastructure in this country’s history. I think what we are actually seeing is a very, very severe abuse of process. This Prime Minister came to the parliament and she came into government and she was promising a new era of transparency. This was to be letting in the light. I went back and had a look at the bible for this place—Odgers. In the first chapter, ‘The Senate and its constitutional role’, I was frightened by what I read.

The functions of the Australian Senate may be summarised as follows:

I will quote some of them, if I may.

(1) As an essential of federalism, to ensure adequate representation of the people of all the states...

(4) To review legislative and other proposals initiated in the House of Representatives, and to ensure proper consideration of all legislation.

(5) To ensure that legislative measures are exposed to the considered views of the community and to provide opportunity for contentious legislation to be subject to electoral scrutiny...

(6) To provide protection against a government...introducing extreme measures for which it does not have broad community support.

Nor a mandate.

(7) To provide adequate scrutiny of financial measures, especially by committees...

(9) To probe and check the administration of the laws, to keep itself—the Senate—and the public informed, and to insist on ministerial accountability for the government’s administration.

I have asked myself during the debate this year to what extent we, as senators, can look at these principles and satisfy ourselves, the electorate and the wider Australian community that we have discharged our responsibilities. The reality is that we have not. How does this stack up in only the events of the last few days in which some senators, but not all, have selectively been offered briefings on condition, as the previous speaker said, that they sign up to secrecy agreements? Where does that fit into ensuring legislative measures are exposed to the considered views of the community? We now know the Greens have selectively been given advice and have made their decisions, and during question time in this place today we had the responsible minister, the Minister for Broadband, Communications and the Digital Economy, Senator Conroy, say to Senator Birmingham, ‘You will not be included in the opportunity to be briefed in advance on this legislation.’

We have in this place an abuse of process and it is one, as 76, we should loudly be dissatisfied about. In March of this year, when I spoke to this bill as a person who has spent probably the last 30 years owning and operating businesses and as a chief executive of government agencies, I said that anything of this nature starts with the development of a properly structured business plan, only to be laughed at by the minister, who proudly said he could spend $46 billion of taxpayers’ money without a business plan. That was on 10 and 11 March. Apparently, we now have a business plan, some elements of which may or may not be available for scrutiny by the Senate, a selection of some of our peers and colleagues, subject to signing secrecy agreements, being told that they might be able to look at bits of it and a minister who says that upon the writings of the Chief Executive of NBN Co., appointed by himself without any formal selection or advertising
process, we are all supposed to accept the legislation and pass it. I say again that this is an abuse of process.

One of the elements that I referred to in the development of a business plan on that occasion was a cost-benefit analysis. We asked who else had indicated the need for such an analysis. None other than the Secretary of Treasury, Dr Henry, who said in September 2009:

Government spending that does not pass an appropriately defined cost benefit test necessarily detracts from Australia’s wellbeing.

That was the senior official of Treasury calling for a cost-benefit analysis. A regulatory economics expert, Henry Ergas, said at the time that taxpayers deserve better. He said:

This is hardly public policy as it should be; nor is it structural reform. Rather it is legislated blackmail. The legislation’s very vagueness makes it clear what the government seeks is not a mandate for clearly defined change but an open-ended discretion to inflict massive costs … most immediately on Telstra and its shareholders.

He could well extend that to the wider Australian community. We have asked that the Productivity Commission be tasked to do an independent economic analysis of this biggest ever infrastructure program in our history. But no, we have been told the Productivity Commission does not need to do that—that we do not need an economic analysis or a cost-benefit analysis—yet we seem to have been asked to take on trust legislation which is deeply flawed.

What are the objectives of the Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2010? The first objective is that Telstra is required to ‘voluntarily’ structurally separate its network and retail businesses. If it does not, the bill penalises Telstra by potentially barring it from 4G spectrum auctions and compels the sale of its HFC cable network and/or its 50 per cent interest in Foxtel. This is not some South American quango or some Eastern bloc communist dominated country; this is the democratic country of Australia. Telstra is a public company with two million shareholders. It has 50,000 or 60,000 employees and it provides services to 17 million people in this country and beyond our shores. The threat is that if it does not then it will be penalised, barring it from 4G spectrum auctions and/or losing 50 per cent of its interest in Foxtel.

The second key objective of the bill—and it causes you to wonder where we are—exempts the proposed NBN Co.-Telstra agreement from the normal operation of the Competition and Consumer Act 2010: ‘Don’t do as I say, don’t do as I do.’ This is an exemption from scrutiny which is visited upon every other public entity, company, in this country. The third objective is to amend the telecommunications access regime to a new approach where the ACCC sets upfront price and non-price terms for periods of up to three to five years. This would shift litigation, reduce the risk of litigation and increase certainty for access seekers. Who else gets this level of benefit economically? Nobody. The fourth objective of the bill is to enlarge consumer protections, including universal service obligations. We should be tearing the walls of this place down when we contemplate what this legislation actually intends to do.

I ask then the question: what has been the response from people in the industry? The past Chairman of the ACCC, Allan Fels, said:

One must have a real concern that the outcome of negotiations between Telstra and the government is that there will be a monopoly National Broadband Network with Telstra and other major telco players all involved but with little competition from anyone else.

All of us know the enormous international competitiveness in the telecommunications
world. We can all link up on Skype. We can link up offices around the world and have a one- or two-hour conversation—as indeed I did in the company that I ran prior to coming into this place, where we would have conferences free of charge through internet connectivity with Dubai, Mumbai, Singapore, Kuala Lumpur and Perth. Why would we create a monopoly when there is such competitiveness in telecommunications around the world?

I wish to raise another point, and it relates to the fact that we are of course for improved broadband conductivity; everybody is for improved broadband connectivity, just not this plan. I use the analogy of water reticulation. What are we contemplating here in Australia? We are contemplating a $43 billion project to ‘make the reticulation pipelines around our property bigger and bigger and bigger’—and, you would think, faster and faster and faster. But, as has been pointed out to me by telecommunications experts, we are doing nothing with this expenditure or this legislation to actually increase the diameter of the pipeline internationally. Ninety-five per cent of all our internet connectivity is outside Australia; only five per cent is within Australia. To take my analogy further, if all you have is an 18 millimetre pipeline from the main into your home, the width of the pipes within your property does not matter a toss; you will be limited in your connectivity, you will be limited in the supply, by the diameter of that pipeline—and none of this legislation is directed at improving the quality, the timeliness, the size or the capacity of that pipeline joining us to the outside world. This is effectively a $43 billion intranet, if you take Australia as the one entity. There is no sense in increasing it to 100 megabits or anything else if you cannot increase the connectivity to the 95 per cent of the world where you actually connect into the internet.

I now come to what it is that must be changed. The first thing we must do to preserve Australia’s integrity in the wider business world, including the international business world, is ensure the normal operation of our competition and consumer legislation, which protects the interests of consumers and also promotes competition—and that must apply to the Telstra-NBN Co. deal, however it is structured. Only today have we learnt that, as a result of intervention and dominance by the Greens, the whole ball park has changed in terms of the future ownership of NBN Co. When we rose on Thursday, according to the minister, the NBN Co. was ultimately to be sold. We now know that, as a result of dominance by the Greens Party, the NBN Co. is to remain in public hands—yet another monopoly. Back to Communist Russia!

The second thing we must do is ensure that the ACCC has the capacity to properly review all aspects associated with this legislation, and it must have the long-term interests of all users—consumers, competitors and the parliament—in mind. If we are to regain the parliament’s control over this minister, it is essential that any ministerial direction to the ACCC must come under the umbrella of, and have joined to it, a disallowable instrument. When it comes to spectrum, since we have already seen that one of the objectives of the bill is to penalise Telstra should they not comply with the government’s demands, we must remove the minister’s gun to the head of Telstra and take away his discretion to bar Telstra from bidding for the next generation 4G wireless spectrum—and, again, we must achieve that through a disallowable instrument. We have got to remove that situation and we have to ensure that the private sector has equal opportunity to participate in this activity into the future.

As part of that process, when I spoke in March, as there was not at that time any in-
tention to develop a business plan for this particular project, I considered what might be involved in a risk analysis. What is at risk? The first thing at risk is the incredible sum of money. As indicated by Senator Joyce in his contribution to this debate, it is not taxpayers’ money, it is loan money; it is money that has to be borrowed and repaid. If we do not get a hold of a business plan and a cost-benefit analysis we will never be able to scrutinise just how those funds are to be repaid. But what of the Telstra shareholders? Last Friday the Telstra share price was down to, I think, $2.66, which is near the year’s low of $2.60. So the first thing that is at risk is the debt to the Australian taxpayer and the erosion of the value of Telstra shares.

The second—which I have referred to and will repeat—is the integrity of Australia’s competition laws, the very laws that have held us in good stead and allowed us to be internationally favoured as a country in which to do business. Only over the last five to six months have we seen Australia’s sovereign reputation torn asunder by foolishly prepared, hastily announced mining taxes. Those taxes had to be withdrawn, but do not for one minute overlook the impact they had in Europe, the United States and Asia on the reputation of this country for safety and integrity. As I continue my presentation this afternoon, what is also at risk is the integrity of this chamber and its ability to scrutinise legislation according to that with which it is charged. If we abrogate that responsibility, if we pass that responsibility up, we will be damned—we will be harshly judged, as we should be, by the wider community, who place that trust in us.

We are looking at another monopoly. We are looking at public ownership well into the future. If we believe the Greens—and a deal has now been done between the Labor government and the Greens—we are facing lack of competition and abuse of parliamentary scrutiny. On the part of this minister, we are facing gross incompetence and arrogance. We saw that evidenced—and in fact supported by the minister’s own colleagues—during question time today, when question after question that would normally have gone to this minister was deliberately presented to ministers other than him. What sort of confidence does he enjoy amongst his own colleagues? He certainly enjoys none on this side of the chamber. In terms of his arrogance, I would refer to bullying, and if anybody doubts that they can simply look at the terms to which Telstra would have to agree—not a bad deal for Telstra but one that we would prefer not to have seen.

Finally, it is the effort of a government trying to retain power in this country at whatever cost—and it is a cost to the taxpayer.

Senator McGauran (Victoria) (6.10 pm)—I join this debate, on the issue of the moment, on the Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2010 or, in its short version, the ‘screw Telstra’ bill. This is a bill born out of threats and intimidation, arrogance and desperation by the government. I see Senator Sherry shaking his head.

Senator Sherry—I was concerned about your earlier terminology.

Senator McGauran—Well that is exactly what it is. There are two million Telstra shareholders, Senator Sherry, that would agree with me. That is the plain language. That is all that this bill deserves—a bit of plain speaking. It would not hurt some of you across—

The Acting Deputy President (Senator Barnett)—Order! Senator McGauran, you will address your remarks through the chair and you will ignore interjections across the chamber. I draw Senator Sherry and other senators’ attention to that.
Senator McGauran—This is a bill, I will repeat, born out of threats and intimidation by a desperate government towards one of Australia’s internationally labelled companies, one of Australia’s largest companies. It has, I believe, some two million mum-and-dad shareholders, so it is one of the largest dispersed shareholdings in Australia. This government is legislating to break it up, Venezuela-style. This is unprecedented in Australian history. It has sent a shudder through the market, and Telstra shares have duly been affected.

The government are attacking a privately listed company, forcing it to be broken up, for one reason: to prop up their ailing federal election campaign policy, their field of dreams. This legislation will hit the telecommunications market’s confidence. Senator Back, before me, talked about the integrity of the whole market nationally and internationally. Do not think they are not watching this, and do not think future investors will not be scared off by this. This is an unprecedented step in corporate bullying and, rest assured, it will eventually backfire on the government. The legislation, whilst compensating Telstra to a degree—some $11 billion—effectively hands over Telstra’s infrastructure, all its pits, and ducts and backhaul fibre, so that the NBN Co. can exclusively use it to lay their fibre. The legislation before the Senate is a valiant attempt to plug just one of the viability leaks that the NBN Co. has sprung. Without the exclusive use of Telstra’s copper infrastructure network, the government policy of laying the broadband network to some 90 per cent of households would simply implode.

This will not save the NBN Co. The scheme is already starting to sink, and I make a prediction. As I have said on other pieces of legislation, I have to make my predictions early. Most likely, this time next year the company will signal its distress—along with the minister’s distress. Firstly, take the implementation report, the McKinsey report, for which McKinsey were paid—although I do not want to be sidetracked by how much consultants are paid by this government—an incredible $25 million. I would like to know—perhaps I will have to wait until estimates—whether that is not one of the highest consultancy fees ever paid.

We have been denied access to the business analysis and there has been no cost-benefit analysis but we can garnish from the implementation report, the McKinsey report, certain business facts and realities. The McKinsey report established a rate of return for the company of, at best—it was going to give a glowing report—eight per cent, provided there was a 90 per cent take-up and provided the company borrowed at risk-free bond rates. That was the standard that had to be set for the company to return even an eight per cent rate. Well, you can kiss private investment goodbye if that is the return rate for such an outlay on such assets. But besides that, just for the NBN Co. alone—the government-owned monopoly alone—the assumptions were of eight per cent on a 90 per cent take-up on a very low borrowing rate. That is the cornerstone of the viability of the company. All the assumptions are utterly flawed.

Take Tasmania, where they are rolling out the fibre, as an example. To date there has been a take-up rate, I have been informed, of as low as 11 per cent. We do not know how much of that 11 per cent are 100 megabytes, or even whether it is the whole 11 per cent. In response to this viability leak the government want the states to move legislation to prop up this ailing NBN Co. They want the states to move an opt-out clause: you will get your fibre whether you like it or not unless you sign an opt-out clause. Tasmania has agreed to force people into take-up but, rest...
assured, I hear the other states are not. They are extremely reluctantly to do that.

Can’t you see the mire that is being created? Every time there is a viability leak in terms of this company the government has to move legislation to fix it. The second thing garnished from the McKinsey report regarding the viability of the NBN was cost blowouts. The McKinsey report did not factor in any cost blowouts but there are cost blowouts all around the government. They must be petrified about how much this is really going to cost them. The first blow-out is in relation to new properties in housing estates. Confusion reigns. Who is going to pay—the developer or the government?—for the connections in the new housing estates? Before the election the government said—naturally they said it before the election; they said a lot of things before the election—that the government, the NBN Co. would foot the bill for the new housing estates. Now we are told that the government are considering—guess what?—more legislation to plug up the viability leaks of NBN Co. They are considering legislation to force the developers in new housing estates to put in the connections.

But it gets worse in regard to the blowouts in terms of old multi-dwelling units—the big housing apartment blocks. The NBN Co. have said that they will refit and rewire these old apartment blocks. I am not talking about those two- or three-storey seventies blocks; I am talking about multistorey buildings. In fact, I am informed that those buildings make up one third of Australia’s dwellings. The NBN Co. never factored that in. It is not factored into their business plan; I am sure of it. I will tell you why: when asked, they duck for cover. That is the surest sign that they have not factored these cost blow-outs.

And there is another cost blow-out coming. The unions are circling the company. I am not surprised at all. The ACTU is circling the NBN. They want their slice of the collective bargaining too. It may be like the Victorian government’s Royal Children’s Hospital or the desalination plant. The unions got hold of those two government projects, shook them down and increased the cost of construction enormously. They probably doubled the cost. I am willing to say it doubled; someone can prove me wrong. If anything like that happens then NBN Co. is in for a big blow-out when the unions want their slice of this cake. And they will get it too. Let me tell the directors of the NBN: you will not get any hope or satisfaction from the Labor government; they will cave in as quickly as they can. After all, it is only taxpayer money! Do not think Senator Conroy is going to defy the union. Do not think he could put up with a strike on the premises of the NBN or a slowdown of the rollout because of the union. That is another cost blow-out on its way, and none of these has been factored in. All the figures are rubbery.

This is a waste of unimaginable proportions. I heard that the minister at question time was even playing down the figure. It is not $43 billion any more; our contribution is actually less. Is it around $26 billion?

Senator Fisher—So they say.

Senator McGauran—They now say that it is $26 billion but when they first announced this project they could not put a high enough figure on it. It was $43 billion, all right, and they boasted about that, but now it is down to $26 billion. What is the difference? The difference is that they are saying, ‘We’ll get private investment into this.’ They say that the costs are not as high as they were going to be but I have just proved that all these blowouts will push it past that figure.

And the government are not going to get any private investment; that is a field of dreams. No investor worth their salt would
come near this company—not now and not in five years, when the government pretend they will privatise this company. The government were shameless in announcing that it would cost $43 billion. The figures are rubbery. They are just playing with figures on a day-to-day basis, hoping to get through the politics of the matter each day. But it is all catching up with them, and they know it.

Here is another possibility regarding the NBN that we can garnish from the McKinsey report. I happen to think the McKinsey report was not too bad at all. It told us a lot. I cannot wait now for the business plan to come out next week, because we got so much information from the McKinsey report we are sure to get more from the business plan. I am not listening to Senator Conroy saying it all stacks up. He will say anything on a day to day basis to get through the politics of the day.

We have proved the misrepresentations and falsehoods time and again. I should add that this does not just come from Senator Conroy; it comes from the Prime Minister herself. She stood up in the parliament last week and said that the connection of the NBN to 90 per cent of households—if it gets to 90 per cent—is going to bring internet prices down. Do you know what the McKinsey report told us? It told us that internet prices will have to go up every year to keep the viability of the company. This is a company that is going to be increasing its internet prices to Australian households. That is the way monopolies behave, by the way. There is nothing unusual about that. For it to maintain its viability, the characteristic of any monopoly is to increase prices year in, year out. Yet we have the Prime Minister telling us that the prices will fall. There is a conflict there—and I know where the truth lies.

It just so happens that only 43 per cent of Australian households at the very low income level of $40,000 to $45,000 are connected to the internet. The main reason the rest of them are not connected is cost. It is a cost factor. That is why they do not take up the internet. So now the government is going to take any competitiveness out of the market. It is going to take away any chance these lower income households have of connecting to the internet. It will strip that away from those lower income households because prices on the internet will go up every year. That is according to the McKinsey report and we will see it next week in the business plan. Prices are not coming down.

I really think that Senator Conroy must have been dreading the day that he jumped on the former Prime Minister’s aeroplane just so he could talk to him and cook up this new scheme. Can you imagine it—two big egos at high altitude? The greatest infrastructure plan in Australia’s history, they were going to dub it when the plane landed. It is uncosted, to date. Senator Conroy has been left holding the baby, not even valiantly. He is becoming shrill. He is becoming manic about his defence in all of this. But it is also irresponsible. There is no accountability. It verges on corrupt behaviour towards taxpayers’ money. His fortunes are hooked to this, as is the government’s, because this is the biggest lie since the ETS. In fact, this is another ETS. In the first term you had your ETS and now you have your NBN. Remember the day Senator Wong stood there, loud and vicious? It is a bit like she was today—loud, tough, aggressive Senator Wong defending the ETS to the death. All the rhetoric was blown up to the point where it was said, ‘This is the greatest moral challenge of our time.’ Then the truth dawned. Then they lost a Prime Minister over it. But they have learnt nothing. They have a new ETS around their necks. They are at it again—a minister and a
Prime Minister—and their rhetoric matches that of the ETS. Where the ETS had the greatest moral challenge of our time, we have a new one. The new Prime Minister has said the NBN will bring internet prices down. That is the new big claim: it will bring prices down. We know it will not. This will all finally flush through the system. You had your moment in the sun about the ETS. We sceptics on this side were feeling a bit battered and bruised at certain points, but then the truth won out. You got mugged by reality. The McKinsey study has proved it all to us. Perhaps the $25 million was well spent. Perhaps I was a bit hard on McKinsey and Co. I see it has another job. I do not know how many millions that will get it, but—boy! — McKinsey and Co. do very well out of the government. Perhaps the $25 million was well spent.

If you think the pink batts scheme was idiotic and Mr Garrett irresponsible, and if you think the Julia Gillard memorial halls were negligent waste, you have not seen anything yet. This tops the lot. They are dubbing it the greatest infrastructure project in Australia, at $43 billion, and that does not even include the certain blowouts that are on their way. This is beyond farcical. We have a minister, more known for his factional capabilities than his managerial capabilities, who is completely delusional. He has lost all sense of national responsibility. Perhaps he has been told to do it. And then all the Chauncey Gardeners follow in from the other side. They just want to be here. They espouse the lines of the NBN like they did with the ETS. They are all Chauncey Gardeners. They do not care about the reality of spending $43 billion of taxpayers’ money. They are given their lines by the whip. They cannot even deliver them with any excitement, to tell you the truth. There is a lot of drabness coming from the other side. There is no sense of national responsibility. In the end, all this will implode on them. We will keep chipping away and in the end it will all implode.

The media are picking it up. The leaders of society in responsible positions are now coming out. The responsible journalists are all coming out now. That is just the beginning, and then it will sweep through the community because they will see you spending $43 billion, Senator Sherry, whilst their living costs are going up. They will be wondering why you are wasting their money. They could not put up with the pink batts, they could not put up with the memorial halls and they will not put up with the broadband if they think it is waste—and it is going to prove to be wasteful.

This is a debate that has been going on for the last two weeks of parliament and it is really starting to filter through. Don’t think it is not, Senator Sherry. You can live in denial. I think you have even given up on your own government. You are bored with government. The great honour and responsibility of government is being wasted by those Chauncey Gardeners on the other side. We always believed in what we did.

Senator Sherry—If I wasn’t crook I’d be having a real go at you!

Senator McGauran—Have a go at me, if you want to—I have been trying to provoke you during the whole debate! You have given up. You cannot defend the indefensible, and that is the stage we have reached. This is more than a political issue. This is an issue of responsibility, just like the emissions trading scheme was. When we really believe, as we do, just how flawed this scheme is, we are not just playing politics. (Time expired)

Debate (on motion by Senator Sherry) adjourned.

Sitting suspended from 6.30 pm to 7.30 pm
That the days of meeting of the Senate for 2011 be as follows:

**Autumn sittings:**
- Tuesday, 8 February to Thursday, 10 February
- Monday, 28 February to Thursday, 3 March
- Monday, 21 March to Thursday, 24 March

**Budget:**
- Tuesday, 10 May to Thursday, 12 May

**Winter:**
- Tuesday, 14 June to Thursday, 16 June
- Monday, 20 June to Thursday, 23 June
- Monday, 4 July to Thursday, 7 July

**Spring:**
- Tuesday, 16 August to Thursday, 18 August
- Monday, 22 August to Thursday, 25 August
- Monday, 12 September to Thursday, 15 September
- Monday, 19 September to Thursday, 22 September
- Tuesday, 11 October to Thursday, 13 October
- Monday, 31 October to Thursday, 3 November
- Monday, 21 November to Thursday, 24 November
- Monday, 28 November to Wednesday, 30 November.

Question agreed to.

### NATIONAL HEALTH AMENDMENT (PHARMACEUTICAL BENEFITS SCHEME) BILL 2010

**Second Reading**

Debate resumed from 17 November, on motion by Senator Feeney:

That this bill be now read a second time.

upon which Senator Fierravanti-Wells moved by way of amendment:

At the end of the motion, add “but the further consideration of the bill be an order of the day for the first sitting day after:

(a) the Government sets aside the memorandum of understanding (MOU) signed between the Government and Medicines Australia on 6 May 2010;

(b) the Government has entered into a fresh set of negotiations to develop a new MOU which will secure the identified $1.9 billion cost savings or other potential savings to the Pharmaceutical Benefits Scheme;

(c) all parties possessing a material interest in the outcome of the proposed reforms or whose material interests are affected by the reforms, including the members of the Generic Medicines industry Association, the Pharmacy Guild of Australia and the National Pharmaceutical Services Association, have been consulted in the negotiations for a new MOU; and

(d) the Government has circulated in the Senate amendments to the bill to reflect the contents of the new MOU”.

### Rearrangement

Senator XENOPHON (South Australia) (7.34 pm)—I apologise for delaying the Senate’s time in relation to this, but I will be
brief. I am not in a position to support Senator Fierravanti-Wells’s second reading amendment to the National Health Amendment (Pharmaceutical Benefits Scheme) Bill 2010. I understand the reasons for the amendment and I understand the background to this matter. Also, I am grateful for the time that Mr Peter Dutton, the shadow health minister, and Senator Trood have given me in relation to this. It is my view that there has been consultation between the various parties. I and staff in my office have spoken extensively to the group representing generic medicines in Australia. There is a significant budgetary impact in relation to this measure. I will move an alternative amendment, which has been circulated, that will allow for further consultation on a regular basis. There is a real risk that the matters raised in Senator Fierravanti-Wells’s amendment will unnecessarily delay that. There has been a consultation process in relation to the MOU and parties were invited to participate in that. I note that the Pharmacy Guild of Australia has signed off on this and I think Medicines Australia has signed off on this. I know that the generic medicines industry has been unhappy with the process, but I am satisfied that the second reading amendment that I propose to move shortly will deal adequately with the issues. That amendment will be moved in my name and in the name of Senator Fielding.

I do understand the concerns of the generic medicine sector regarding the perceived lack of consultation and that they believe there will be an impact on their business; however, I believe that there are important savings that can be made and that can be reasonably met. I have heard the concerns of the generic medicine sector and I have worked with the government to move the second reading amendment in my name and Senator Fielding’s name. I will do so shortly, and I believe it will give support to the generic medicine sector. I believe that to do otherwise would be to unreasonably delay this bill. In the circumstances I cannot support the amendment moved by Senator Fierravanti-Wells on behalf of the opposition.

Question put:
That the amendment (Senator Fierravanti-Wells’s) be agreed to.

The Senate divided. [7.42 pm]

(The Acting Deputy President—Senator MG Forshaw)

Ayes…………. 29
Noes………….. 31
Majority………. 2

AYES
Adams, J. *  
Barnett, G.  
Birmingham, S.  
Boyce, S.  
Cash, M.C.  
Cormann, M.H.P.  
Fifield, M.P.  
Johnston, D.  
Macdonald, I.  
McGauran, J.J.  
Nash, F.  
Payne, M.A.  
Ryan, S.M.  
Troeth, J.M.  
Williams, J.R.

NOES
Bilyk, C.L.  
Brown, B.J.  
Cameron, D.N.  
Crossin, P.M.  
Feeney, D.  
Forshaw, M.G.  
Hanson-Young, S.C.  
Hurley, A.  
Ludlam, S.  
Marshall, G.  
McLucas, J.E.  
Moore, C.  
Pratt, L.C.  
Siewert, R.

Bishop, T.M.  
Brown, C.L.  
Collins, J.  
Farrell, D.E.  
Fielding, S.  
Forner, M.L.  
Hogg, J.J.  
Hutchins, S.P.  
Lundy, K.A.  
McEwen, A. *  
Milne, C.  
Polley, H.  
Sherry, N.J.  
Stephens, U.
Senator SIEWERT (Western Australia) (7.45 pm)—I move the second reading amendment standing in my name:

At the end of the motion, add: but the Senate calls on the Government:

(a) to ensure that there is an annual report to Parliament on all available data on under co-payment products, including the drug name and form, the quantities dispensed;

(b) to table a copy of the annual report by the Access to Medicines Working Group to the Minister for Health and Ageing on the progress and implementation of the Memorandum of Understanding signed between the Government and Medicines Australia on 6 May 2010, commencing not later than 1 January 2011; and

(c) to conduct a study of the affordability of prescription medication and access to medicines, including the use of generic medicines.

Question agreed to.

Senator XENOPHON (South Australia) (7.45 pm)—I, and also on behalf of Senator Fielding, move the second reading amendment standing in our names:

At the end of the motion, add: but the Senate calls on the Government:

(a) to request advice from the Pharmaceutical Benefits Advisory Committee on any new evidence on whether or not two medicines, rosuvastatin and atorvastatin, should be included in the existing statins therapeutic group;

(b) to examine whether there are any barriers to generic medicines entering the market through the inappropriate use of intellectual property rights over product information, building on work currently underway, and to table a report by 30 June 2011 on these barriers and appropriate mechanisms to address them; and

(c) to convene a discussion every six months until 1 July 2014, with the Pharmacy Guild of Australia, the National Pharmaceutical Services Association, the Generic Medicines Industry Association, and Medicines Australia on the impact of the reforms in this Bill and any unintended consequences or relevant issues and to table a report on this discussion every six months.

Senator XENOPHON—Mr President, I seek leave to make a short statement.

The PRESIDENT—Leave is granted for two minutes.

Senator XENOPHON—Two minutes is all I need.

The PRESIDENT—That is generous.

Senator XENOPHON—You are a generous man, Mr President.

The PRESIDENT—It wasn’t me who granted you leave.

Senator Fierravanti-Wells—It was me.

Senator XENOPHON—Senator Fierravanti-Wells is a generous woman. I have already spent 10 seconds thanking people for their generosity. In relation to the amendment, I want to say that quite a significant issue was put to me by the generic medicines industry about a potential abuse of intellectual property rights by pharmaceutical companies, and that is something I want to pursue. I think Senator Boyce has acknowledged that concern—if I am not mistaken.

Senator Boyce—Yes.

Senator XENOPHON—I acknowledge and thank Senator Fielding for arranging a meeting with the generic medicines represen-
tatives and with the minister’s office earlier today. That was a very useful initiative on the part of Senator Fielding. I urge members to support this. I urge the opposition to support this amendment; it is certainly an improvement on the government’s current position.

Senator FIERRAVANTI-WELLS (New South Wales) (7.48 pm)—Mr President, I seek leave to make a short statement.

The PRESIDENT—Leave is granted for one minute.

Senator FIERRAVANTI-WELLS—For the record, I just want to say that Senator Xenophon indicated that he had spoken to Mr Dutton in relation to this. There may have been a misunderstanding. I was not aware that Senator Xenophon had spoken to Mr Dutton about it. In any case, the opposition will not be supporting the motion moved by Senator Xenophon and Senator Fielding.

Senator XENOPHON—Mr President, I seek leave to make a short statement.

The PRESIDENT—Leave is granted for one minute.

Senator XENOPHON—Thank you. I just want to indicate to Senator Fierravanti-Wells that I am sorry if there was any misunderstanding. I indicated earlier that I had spoken to Senator Trood and Mr Dutton, but I was referring to last week and in relation to the general principles of this bill. I do not want there to be a misapprehension that I had spoken to Mr Dutton in relation to these second reading amendments. I apologise if there was any misunderstanding.

Question agreed to.
Original question agreed to.
Bill read a second time.

In Committee
Bill—by leave—taken as a whole.

Senator SIEWERT (Western Australia) (7.50 pm)—I would like to ask a few general questions first and then either move my amendments or withdraw them, depending on the answers that I get—if that is okay with the Senate.

The TEMPORARY CHAIRMAN (Senator Forshaw)—You are in order.

Senator SIEWERT—Thank you. The Greens are concerned about the issue of price disclosure when it becomes operational. At the moment, the first cycle is 16 months. Since I foreshadowed these amendments, we have had some discussion with government about time frames and data collection. I would like some confirmation about time frames for the initial round of the price disclosure cycle and subsequent cycles. I would like the Parliamentary Secretary for Disabilities and Carers, representing the minister, to take us through those time lines. Then I would like to understand what the cycle will be subsequent to that, once you have the processes in place for the initial price disclosure cycle under this legislation.

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers) (7.52 pm)—The duration of the first price disclosure cycle, commencing on 1 December 2010, is 16 months, including a data collection period of 10 months and a six-month processing period. As price disclosure is based on sales data for a drug, a reasonable period is required on which to base the price changes. A reasonable data collection period is required to ensure that seasonal fluctuations and short-term changes in the market are balanced by figures on standard month-to-month sales, so giving a complete picture of market activity and not just a one-off sample. As you would understand, Senator, pharmaceutical use changes according to the season, so a decent length of time is needed to pick up winter and other
times when there are different levels of use for various medications. The six-month processing period provides for data submission, new price calculations, price adjustment notifications and opportunities for industry to ask questions or appeal the new prices they are being asked to accept. Any truncating of those time lines would put at risk the accuracy of the pricing and calculations and deny affected companies the due process.

I understand that the motivation of your amendment is to bring this on earlier, and we too would like to do that as quickly as we possibly can. But we truly think that the time frame as described in the legislation is the most sensible period we could have to collect the data required to make a sensible decision and to deal with the process questions that will follow. Your second question goes to what will happen after the first data collection period. I am advised that subsequent cycles will be 18 months in duration. The next cycle will start on 1 October 2011 and include 12 months—a full year—for data collection and that data collection will be followed by six months for data processing, the review rights et cetera.

Senator SIEWERT (Western Australia) (7.55 pm)—Thank you for your answer, Senator McLucas. Six months for data processing and calculations seems a lengthy period, especially for subsequent cycles, as the department will already have done the calculations. Is there not a learning exercise here for the initial phase, which I note it is shorter than the secondary phase? The department will have already done the six months data entry and calculation during the first cycle, so could a shortening of the process for subsequent cycles be accommodated?

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers) (7.56 pm)—Thank you for the question, Senator. The six-month period is broken down as follows. There will be six weeks for companies to submit their data. This allows for end-of-month receipt of data by companies and time for them to collate and validate their data before submission. The accuracy of this data is very important as it forms the basis of the weighted average percentage calculations. Four weeks is then required for the weighted average percentage calculations to be performed and then independently verified. Companies are then advised of any resulting price reductions determined by a legislative instrument. An eight week period is then set aside for any dispute resolution that is required and a final eight-week period is required for the production of the schedule of pharmaceutical benefits so that new prices can be published on the schedule price reduction day—that is, 1 April 2012. So that six-month period is broken down into required time frames. I think that, when you look at the process that is going to be pursued, we do need six months.

Senator SIEWERT (Western Australia) (7.57 pm)—I can sort of understand—and can acknowledge—that the first time you do this there is going to be a longer time frame for data collection. However, 18 months is a long time from the beginning to the end of the cycle. Have you considered that you may not need to do the 12 months data collection process each time?

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers) (7.58 pm)—I hope I am not confusing you, Senator Siewert. The first data collection cycle is 10 months. That is followed by a six-month period of data processing etcetera. From then on, from 1 October 2011, we will go into 12-month data collection cycles with a six-month data verification process. I hope that helps.
Senator SIEWERT (Western Australia) (7.58 pm)—As I understand it, after the initial cycle, the 12-month data collection process will be the standard that is used for data collection. That is correct, isn’t it?

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers) (7.59 pm)—I understand so, and that is designed to capture a full 12-month period so that we get all the health cycles that occur in a normal year—so you get winter, basically.

Senator SIEWERT (Western Australia) (7.59 pm)—Thank you. It is my understanding that the subsequent cycles, the first of which comes into effect on 1 April 2012, are done by regulation rather than being contained in the body of the act. That is correct, isn’t it?

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers) (7.59 pm)—I can confirm they are.

Senator SIEWERT (Western Australia) (7.59 pm)—Thank you. So that means that if it was established that a cycle could be completed in a shorter process or it could deliver better outcomes more quickly through changing the cycle, it could be done through regulations. That is a correct understanding, isn’t it?

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers) (7.59 pm)—I understand so, but the principle of capturing data across a 12-month period is pretty fundamental to getting quality data. We need to get a full annual cycle of pharmaceutical consumption so that we are capturing the full 12 months of usage. I do not think it is fair to capture just a portion of the year and then try and extrapolate what consumption might be for other parts of the year.

Senator SIEWERT (Western Australia) (8.00 pm)—I can understand that argument for some seasonal illnesses. There are some drugs that I do not think would be used in a 12-month cycle, for example. Has there been any consideration of looking at that process differently?

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers) (8.01 pm)—I think the principle is that, if you are capturing the whole 12 months, we are not trying to predict certain behaviours that the players in this market may exhibit if we were reducing that data collection period. I think the first principle is that you require a full 12 months of data in order to make an informed decision about what the price should be.

I take your point that there are many medications used by people that are not relevant to fluctuations in burden of sickness—the normal winter event, for example—but I think to ensure validity of the data 12 months is required. Your fundamental question is if it is being done through regulation then that could change in the future, and I think the answer to that is yes.

Senator SIEWERT (Western Australia) (8.02 pm)—Thank you, and that is the point I was moving to, which is: has the government thought about doing a review of the process to look at what the time frames are and whether into the future it would be possible to shorten the time frames once a review has been done of the first cycle or two?

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers) (8.02 pm)—I think, like any new legislation, it will be constantly being observed to make sure that its intent is being delivered. In terms of any formal review that has been flagged by the government, I think we just moved an amendment to the second reading, which talks about a six-monthly discussion between the Pharmacy Guild of Australia, the National Pharmaceutical Ser-
ervices Association, the Generic Medicines Industry Association and Medicines Australia that will happen every six months ‘on the impact of the reforms in this bill and any unintended consequences or relevant issues and to table a report on this discussion every six months’. In terms of a formal process, that has been inserted into the bill as a second reading amendment.

I can assure you, Senator Siewert, that the government will be watching very closely the implementation of these measures. Should changes be required, I am sure we will make them; however, we think we have got it right in terms of the period of data collection that is required and also the period of time required in order to validate the process and allow time for appeal before drawing up the schedule again.

Senator SIEWERT (Western Australia) (8.04 pm)—I am going to push the envelope a bit here in terms of the review that was contained in Senator Xenophon and Senator Fielding’s amendment and just ask for confirmation that this process could be and will be included in the review process to ensure that it is on the agenda from the start that this process will be under scrutiny.

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers) (8.05 pm)—I can confirm that the government will follow the intent of Senators Xenophon and Fielding’s amendment and that there will be a six-monthly discussion. That discussion can canvass whatever issues the participants want it to cover, and a formal report of that will be tabled every six months. I think that is quite a robust form of review that includes all the participants in the delivery of pharmaceuticals in the country.

Senator SIEWERT (Western Australia) (8.06 pm)—The reason I am trying to nail this down a little bit under (c) is that there is no consumer representative as part of that process of review as far as I understand it. These issues are specifically relevant to consumers, so my concern is to ensure that it is on the agenda to convene a discussion. I note that at the moment, as I understand it, it is the Pharmacy Guild, the National Pharmaceutical Services Association, GMIA and Medicines Australia. They are industry bodies rather than consumer bodies, and I am keen to ensure that an issue can be raised if a consumer is not there to flag it.

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers) (8.07 pm)—Senator, you would be aware that we did not draft this amendment and I think you have identified a group that, had we drafted the amendment, might have been included. Our government has a strong record of ensuring that consumers are consulted not only in the pharmaceutical area but across the health portfolio. Whilst I cannot amend this amendment—it has been carried—I think you can take it as read that consumers will be consulted as part of the broader discussion around the implementation of this legislation. I cannot commit that they will be part of this discussion, but I can say that we will be consulting consumers around the implementation of the bill.

Senator SIEWERT (Western Australia) (8.08 pm)—I can understand why Senator Fielding and Senator Xenophon put together this group, so I was not reflecting on that issue. The point for me was that that group was raised as the group that would be reviewing this every six months. Seeing that that group does not have a consumer representative on it, I wanted to make sure that this issue is on that agenda, because a consumer will not be there to put it on the agenda. I just wanted to be clear; I was not necessarily reflecting on that. I do accept that consumers are generally consulted, but under these arrangements they are not. I note that it will arise—I will make sure it arises—under
the Greens amendment that was successfully passed, which involved conducting a study of affordability of prescription medication and access to medicines. That is obviously an issue around affordability, from our perspective.

If the government could give an undertaking to ensure that the issue we are discussing is on the agenda for this consultation, I would appreciate that. I also indicate that the Greens will not move our foreshadowed amendments; obviously they will not pass. I do understand the time frames. It does not change the fact that the Greens think that the time frame is too long. We will continue to pursue this through the channels that have been established to ensure that, if the time lines can be shortened, they are shortened, because that would mean an outcome where Australians get access to cheaper medicines.

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers) (8.09 pm)—I think, Senator, you would agree that the motivation for drafting this legislation is better outcomes for consumers in access to medicines and also the price of medicines they are using, but I can give you a commitment that we will ensure that consumer issues are placed on the agenda of the six-monthly meetings that are going to be held.

The TEMPORARY CHAIRMAN (Senator Forshaw)—Senator Siewert has made it clear that she is not proceeding with her amendments.

Senator TROOD (Queensland) (8.10 pm)—We on this side of the chamber did not support the amendments and they do seem to me to be deficient in certain key respects. Senator Siewert has pointed to some areas where they are deficient. It seems to me that they are further deficient in that they do not require any action to be taken beyond the report. I wonder whether the minister would care to give an undertaking to the Senate that, were there found to be unintended consequences and there was a view that reform was required, the government would act on that decision.

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers) (8.11 pm)—I think by the very fact that the report will be tabled in the parliament that will occur. If it were absolutely evident that there was a major failing or unintended consequences, any government would act on that advice. However, I think that an undertaking that a recommendation of a group of people would be implemented by our government, or any government, could not be given. This is an industry group, by and large, and it will have a view of the world, and I do not think it would be sensible to give an undertaking that any recommendation from that group would be introduced holus-bolus. But, if it were a sensible recommendation, any government would take the opportunity to fix an error should it exist. Our view is that it will not exist, because we think we have this one right, but to give you undertaking to enter into a series of amendments on the basis of a report to parliament where there may be different views about how correct that recommendation might be is something that no government would do.

Senator TROOD (Queensland) (8.12 pm)—The reason we oppose this legislation, even though that was not supported by the Senate, was that it seems on our side that there are some serious deficiencies with the legislation, including, in my view, some matters of timing. But I am grateful for the assurance that you have given the Senate.

Bill agreed to.

Bill reported without amendment; report adopted.
Third Reading

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers) (8.13 pm)—I move:
That this bill be now read a third time.
Question agreed to.

Bill read a third time.

TAX LAWS AMENDMENT (2010 MEASURES No. 4) BILL 2010

Second Reading

Debate resumed from 18 November, on motion by Senator Lundy:
That this bill be now read a second time.

Senator CORMANN (Western Australia) (8.14 pm)—I rise to speak on the Tax Laws Amendment (2010 Measures No. 4) Bill 2010. This is one of the many tax bills pursued by this government. Of course the Rudd government before it, a high-taxing, high-spending government which has delivered record levels of debt and record levels of deficit and which has been putting upward pressure on interest rates and inflation. This has been a government which is always casting around for more cash to feed its addiction to reckless spending, which is always borrowing more money to feed its reckless addiction to spending and which now wants to hit the states for another $50 billion worth of revenue. Over the last three budgets we have had more than $40 billion in new or increased taxes and we have had more than $90 billion worth of new net debt. Now the Gillard government wants to take another $50 billion over the forward estimates off the states by taking hold of $50 billion worth of their GST revenue.

In doing so, the government does not go through proper process. It does not comply with the deals that were entered into by the Commonwealth and in good faith by the state premiers and chief ministers. We all know that one of the very high profile features of the GST agreement in 1999 was that any changes required unanimous agreement. Of course there is no unanimous agreement. Western Australia is clearly opposed. In fact, not one single state premier or chief minister across Australia has signed on the dotted line to hand over $50 billion worth of GST to the Commonwealth over the forward estimates. The Prime Minister last week in parliament was trying to suggest that not even Colin Barnett wanted to hold up this Labor Party federal takeover of state GST revenue—that he was quite happy for everyone else to hand over the GST to the Commonwealth—but looking at the government’s own advice we know that that is not true. We know that the government has advice from its own Treasury—from, presumably, Dr Ken Henry, who would have signed off on the incoming government brief from Treasury, which is colloquially called the red book—that said:

Western Australia has indicated that it is not prepared to agree to proposed amendments to the IGA notwithstanding that they preserve the current arrangements for Western Australia.

I emphasise ‘notwithstanding’—that they preserve the current arrangements for Western Australia.

That directly contradicts the statements made by Prime Minister Gillard in the House of Representatives last week. It directly contradicts statements that were made by the Minister for Health and Ageing, Nicola Roxon, on Sky News this afternoon. Very clearly the Treasury advice to the government is that:

Western Australia has indicated that it is not prepared to agree to proposed amendments to the IGA notwithstanding that they preserve the current arrangements for Western Australia.

I continue with the advice from Treasury:

As changes can only be made to the IGA by unanimous agreement of all parties, alternative approaches may need to be considered to give effect to the financing arrangements for other jurisdictions.
That is polite bureaucratese for, ‘You might need to find the money elsewhere.’ It keeps going:
Ideally, these issues should be resolved before the reintroduction of the legislation.

That is not this particular piece of legislation, even though it does deal with the GST. That is a separate piece of legislation. But there is a connection there. There is this theme across this government where reckless levels of spending mean that this Gillard Labor government is always casting around for more cash. Any piece of legislation that is related to tax and introduced by this government invariably is focused on maximising, increasing or finding new ways of getting hold of more of taxpayers’ dollars for the government to pursue all the many examples of waste and mismanagement that we have witnessed from this government over the past three years.

This GST tax grab at the expense of the states is not an isolated example. This is a government which in the lead-up to the election in a press release from the Treasurer, Wayne Swan, and then Labor Party spokesman during the campaign, Mr Chris Bowen, claimed that over three budgets they had implemented $83.6 billion worth of savings. Mr Acting Deputy President Forshaw, if anybody spoke to you or me and talked about savings, we would think that the government has saved some money by cutting spending. But I am sure that you would be as surprised as I was when you realised that more than half of the $83.6 billion in savings claimed by the government in the lead-up to the election and again by the Treasurer as recently as a week ago are, in fact, tax increases. More than $40 billion in new and increased taxes have been pursued by this government over its first three budgets. We have had the alcopops tax. We have had the $2½ billion tax on the North West Shelf gas project. We have had the luxury car tax. We have had the reduction in income tax cuts. We have had the mining tax. We have had a whole plethora of increases in taxes and charges. And what does this government do? It categorises them as savings.

It is one thing to make people believe that somehow this government is fiscally prudent, that somehow this government is more fiscally prudent than any that have gone before; but, of course, when we look at the record of this government what we see is that budget after budget has dramatic increases in spending, even more dramatic increases in taxes, even more dramatic increases in debt and deficit and, now, an attempt to get $50 billion worth of additional revenue at the expense of the states and then sell it as health reform.

Remember the alcopops tax. I am sure that Senator Nash well remembers the alcopops tax. The government tried to sell it as a health measure because they know increased taxes are not popular, increased taxes have to be justified and increased taxes have to come with a high-moral-ground argument as to why they are necessary. So the government were going to stop binge drinking by increasing taxes. What happened? Have this government fixed binge drinking by increasing taxes? No, they have not. Binge drinking continues to get worse and we know, from looking at the fine print, that not only did this government not expect to fix binge drinking but also they were expecting binge drinking to continue because Treasury expected that that the consumption of alcopops would continue to increase at a dramatic rate in the out years of the forward budget estimates. There is a pattern here, a pattern of pursuing new and increased taxes wherever they can, of trying to come up with a high-moral-ground reason as to why they are justified and of forever casting around for more cash whatever the downstream consequences
are for the economy, jobs, investment and Australians’ quality of life.

Furthermore, a significant theme that runs through all of this is that in Treasurer Wayne Swan we have the most secretive Treasurer in the history of the Commonwealth. He is a Treasurer that is always desperate to cover up yet another stuff-up, that does not want people to be able to scrutinise his activities and that does not want people to be able to check whether the facts and figures that are somehow presented have any foundation in fact. Whether it is the Treasury modelling of the emissions trading scheme, the alcopops tax or the impact of the mining tax, he keeps things secret. I guess there has not been any Treasury modelling of the National Broadband Network because the government does not really want to go anywhere near anything that resembles a cost-benefit analysis of that.

There is a purpose to my going through this background, and that is that I, on behalf of the opposition, will be moving an amendment which has also been moved by my colleague the shadow Treasurer in the House of Representatives, Mr Joe Hockey, the member for North Sydney. I represent Mr Hockey in this chamber in dealing with this legislation. I will be moving a series of amendments with the intention of increasing the accountability of government spending. We took a commitment to the last election to provide to taxpayers a receipt from the Commonwealth for how their money has been spent. We come at the issue of tax as the party that is committed to fairer, lower and simpler taxes. Kevin Rudd and Wayne Swan at some point said, ‘We need root-and-branch reform of our tax system; we want fairer, lower and simpler taxes.’ This morning we had a discussion with Treasury secretary Ken Henry about the mining tax and even Ken Henry conceded that the mining tax is more complex than what was there before and, I would argue, less fair. It is a tax that was designed in secret by this secretive government with the three biggest taxpayers to be subject to the mining tax—BHP Billiton, Rio Tinto and Xstrata—excluding hundreds of mining companies that are going to be subject to this tax. It is a tax that was designed by this government in secret to suit the specific needs of multinational, multicommodity, multiproject companies with a reliable cash flow and equity finance. This tax has many features that will make it harder for small- to mid-tier companies to survive, to grow, to prosper and to become the next BHP, Rio or Xstrata, because this government has given a clear and unfair competitive advantage to those companies by negotiating the revised mining tax arrangement in the way that it did.

In fact, not only is the tax more complex and I believe less fair but also it is more distorting than Kevin Rudd’s superprofits tax, if you believe the Treasury secretary, because where Ken Henry suggested that the resource rent tax nationally would replace state government royalties the minerals resource rent tax does not do anything of the sort. The minerals resource rent tax will still see small- to mid-tier companies not subject to the mining tax continue to pay state royalties. Those mining projects that get to the end of their project life will again be paying state royalties and not be able to offset those against any minerals resource rent tax liability. So at the two ends of the project life, where concern about distortion of investment and production decisions is most acute, there will not be any change. Companies will be at least as badly off as they were before, if you agree with the government’s analysis of the impact of state royalties. The only projects that will not have to pay state royalties are those that will have to pay more tax overall by paying the minerals resource rent tax as a net contribution on top of state royalties. We have ended up in this situation because of the
incompetent way in which this government has pursued the introduction of a proposed national tax on mining. The tax system is now more complex and less fair, and essentially it has descended into nothing more than yet another tax grab.

There are some specific features to this particular bill. The government is essentially doing some tinkering around the edges with eight measures in this bill, which include the GST on third-party payment adjustment provisions, the capital gains tax treatment of water entitlements and termination fees, financial arrangements provisions, scrip rollover provisions, medical expenses tax offset claim thresholds, deductible gift recipients and volunteer fire brigades. The opposition do not oppose these measures. However, we know that this is just some more tinkering at the edges. This government does not have the courage to pursue root and branch reform of our tax system. This government has not got the courage to pursue genuine tax reform. This government has not got the courage to go for lower taxes and smaller government. This government has not got the courage to start cutting spending. This is a high spending, high taxing, high debt and deficit government which, through its failed fiscal and economic policies, is putting upward pressure on interest rates and inflation. This government has got a very, very bad record when it comes to economic management.

One measure the opposition committed to in the lead-up to the election was that we will recommend the Senate agree to an amendment that will ensure Australian taxpayers know how their money is spent. The coalition believe taxpayers should be aware of what governments are spending their money on. Ultimately it is the taxpayers’ money. The government tries to sell increased taxes as savings. The government seem to have the view that all the money is the government’s money and they have to make a decision on how much money people can keep. We on this side of the chamber have a very different attitude. We take the view that all the money is the people’s money and the government should take as little of it as possible but, yes, as much of it as is necessary to provide services for the good government of Australia. Individuals are the best equipped to make decisions on how best to spend their own money. This is a principle that the government does not understand. That is why the government is always looking for new ways to get additional cash from taxpayers to feed into its reckless and wasteful spending. Mr Acting Deputy President, I know that you have a great understanding of the excessive waste and mismanagement perpetrated by the government over its first three years.

There is much to be said about the high taxing, high spending, high debt and deficit bad track record of this government—

Senator Xenophon interjecting—

Senator CORMANN—but, as Senator Xenophon, very helpfully points out, there is not much time left to really go through all the detail of it. So I will just confirm again that, when Dr Ken Henry started with his committee the process of what is colloquially called the Henry tax review, we were promised root and branch reform of our tax system; we were promised a fairer, simpler tax system. But what we have been delivered is more complex and less fair; it is essentially just another grab for cash at the expense of the Australian people complemented with another $50 billion grab for cash at the expense of the states and territories without the Treasurer doing his homework and getting the unanimous support of all states and territories as is required in the intergovernmental agreement on the GST—both the agreement signed by John Howard in 1999 and the agreement signed by Kevin Rudd in 2008.
We know the government knows it has to comply with a requirement for unanimous agreement because the Treasury department told Julia Gillard and Wayne Swan they had a problem which they should resolve before trying to take away $50 billion of GST from the states and territories. I will make some more comments during the committee stage of this debate. I thank the Senate.

Senator XENOPHON (South Australia) (8.34 pm)—My comments on the Tax Laws Amendment (2010 Measures No. 4) Bill 2010 will be relatively brief and I will focus on those amendments relating to the irrigation community. Irrigators are facing tough times. Even though we have had higher than average rainfall this year, irrigators are still struggling to cope with reduced allocations and the fallout from a seven-year drought. The Murray-Darling Basin Authority’s guide to the draft basin plan, released a few weeks ago, has worried many irrigators. This is something I heard again when I was in the Riverland in South Australia just last Friday. I was fortunate enough to have my parliamentary colleague the member for Kennedy, the Hon. Bob Katter, come down to South Australia and go to the Riverland and the Lower Lakes with me to speak to irrigators and environmentalists. That was a very useful exercise, I believe, for both the South Australians who met Mr Katter and, I hope, for Mr Katter himself. I am very grateful to Mr Katter for his visit to South Australia at my invitation.

In relation to the bill, let us put this in context. All over the basin, irrigators are now facing further cuts to their entitlement and many are having to make tough decisions about their futures. In places like the Riverland, the cuts could be as high as 30 per cent, or more. That is fundamentally unfair in my home state of South Australia, given that they were early adopters of water efficiency savings measures. While we cannot always help irrigators to get their hands on more water, we can help them to work more efficiently with the water they have. Water saving measures such as drip-feed irrigation and evaporation prevention techniques and technologies mean irrigators can save the water they are entitled to and do more with less. This legislation will mean irrigators can have more flexibility in the entitlements themselves. Irrigators do not buy water entitlements as an investment; they buy them because it is the only way they can keep their plantings alive, particularly in the case of permanent plantings. Exempting the transfer of water entitlements from capital gains tax will mean irrigators will be free to shop around and find the best deals and tailor their entitlement to maximise water usage efficiencies. I strongly support this aspect of the legislation and thank the government for introducing this amendment.

Australia’s food security and the economic future of countless towns and communities rest on the irrigation industry, but there is no doubt that we also have to look at things from an environmental point of view. Keeping the basin healthy so that it can support controlled irrigation—with a vibrant, sustainable irrigation industry—and maintain its unique environment is vitally important, but allowing irrigators to make changes to their entitlements more easily will mean that the water market will be more flexible and better managed, so I support these amendments.

I note that Senator Cormann, in his usual innovative style—his dogged and persistent innovative style—has moved a number of amendments, which mirrors a policy of the coalition and, I think, the views of the shadow Treasurer. I am not attracted to some parts of the amendments, particularly the requirement to give, at the end of the financial year, the details of the taxpayer’s share of Australian net debt and how much taxa-
tion revenue raised under the assessment was expended to service public debt interest. Honestly, I think those amendments are quite mischievous. I have real concerns when even seasoned political operatives get tied up in knots as to what is net debt, gross debt and debt as a proportion of GDP—and I am sure the minister, Senator Sherry, can give other examples of different permutations in relation to this. I will listen to the debate on the other aspects and listen to the government’s point of view, but I can rule out supporting those items of the table that make reference to the whole issue of government debt. I think, in the way that they have been presented, they will simply confuse Australian taxpayers. I look forward to the committee stages of this bill.

Senator SHERRY (Tasmania—Minister for Small Business, Minister Assisting on Deregulation and Minister Assisting the Minister for Tourism) (8.39 pm)—Firstly, I would like to thank those senators who have contributed to this debate. Senator Xenophon, it seems to me that you never get tied up verbally; you are very good at your verbal gymnastics. I would like to thank both the senators who contributed to the debate. The bill itself contains a number of provisions, which I understand are supported by all sides of the chamber. There is a foreshadowed amendment in committee; we will deal with that when we get to the committee stage.

The amendments in schedule 1 ensure that recent changes to the GST act to create adjustments for third party payments deliver the appropriate outcomes in situations where there are payments between parties in a supply chain which indirectly alter the price received or paid for the things supplied. Where the taxable status of the supply alters as it moves through the supply chain, the payee obtains a refund under the Tourist Refund Scheme. These amendments take effect from 1 July 2010.

Schedule 2 amends the income tax laws to provide a capital gains tax rollover for taxpayers who replace an entitlement to water with one or more different water entitlements. This rollover ensures that capital gains tax is not a barrier to transformation. Transformation is the process by which an irrigator permanently changes their right to water against an operator into a statutory licence held by an entity other than the operator. Transformation facilitates water marketing and trading and the efficient use of water resources. Schedule 2 also allows termination fees to be recognised when calculating a capital gain or capital loss on an asset by including those costs in the asset’s cost base. This change applies to all assets and not just those relating to water.

The amendments in schedule 3 make minor policy changes and technical amendments to the taxation of financial arrangements provisions. The amendments provide certainty on the operation of the law and, in doing so, reduce compliance costs for taxpayers. The amendments in part 2 of schedule 3 extend the transitional arrangements for the application of debt and equity tax rules to 1 July 2010 for upper tier 2 capital instruments issued before 1 July 2001. The amendments in part 3 of schedule 3 extend the scope of a number of compliance-cost-saving measures and make technical amendments to ensure that foreign currency gains and losses provisions operate as intended. They are part of a package of amendments that was initially announced by the previous government on 5 August 2004, to apply from 1 July 2003. The amendments to the foreign currency gains and losses tax provisions will have retrospective application from 17 December 2003. However, affected taxpayers should not be disadvantaged by this as the initial announcement contained detailed information with respect to the amendments so that affected taxpayers could manage their tax
affairs with the knowledge of the amendments and their impacts, beneficial and otherwise.

Schedule 4 amends the income tax laws to make it easier for takeovers and mergers regulated by the Corporations Act to qualify for the capital gains tax scrip-for-scrip rollover. These amendments carve out takeover bids that do not contravene key provisions of the Corporations Act, and approved schemes of arrangement, from having to meet the rollover requirement, but the target entity’s interest holders can participate in the arrangement on substantially the same terms. These amendments have been made in part because the income tax legislation does not need to regulate participation where the Australian Securities and Investments Commission already takes into account equality issues, including in administering its role in relation to the scheme of arrangement. These amendments ensure that the scrip-for-scrip rollover operates more effectively.

Schedule 5 implements the government’s 2010-11 budget measure to increase the threshold above which a taxpayer may claim the net medical expenses tax offset. From 1 July 2010 the claim threshold will increase from $1,500 to $2,000. It will thereafter be annually indexed to the consumer price index. The first indexation adjustment to the claim threshold will take place on 1 July 2011. These are important amendments which ensure the sustainability of support for taxpayers with higher unreimbursed medical expenses.

Schedule 6 amends division 30 of the Income Tax Assessment Act 1997 specifically to list two new organisations as deductible gift recipients—DGRs—extend the listing of one organisation and effect a name change for another. Taxpayers can claim an income tax deduction for certain gifts to organisations with DGR status. DGR status will assist the listed organisations to attract public support for their activities. This schedule specifically lists, or extends the listing of, the Mary McKillop Canonisation Gift Fund, the Xanana Vocational Education Trust and the One Laptop per Child Australia Ltd. The schedule also effects a name change for the Clontarf Foundation from the Clontarf Foundation Inc. to Clontarf Foundation.

Schedule 7 extends deductible gift recipient status to all volunteer fire brigades. Volunteer fire brigades aim to prevent, respond to and assist with recovery from a range of fire related emergencies, including preventing bushfires from reaching people in built-up communities. This legislation recognises the importance of the community service performed by volunteer fire brigades. This schedule allows all entities which provide volunteer based emergency services, including volunteer fire brigades, to access tax deductible donations and extends deductible gift recipient status to all state and territory government bodies that coordinate volunteer fire brigades and State Emergency Service units. I commend this bill to the Senate.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator CORMANN (Western Australia) (8.46 pm)—by leave—I move all the amendments circulated in my name:

(1) Clause 2, page 3 (table item 15), omit “Schedule 7”, substitute “Schedules 7 and 8”.

(2) Page 47 (after line 3), at the end of the bill, add:

Schedule 8—Providing tax receipts to individual taxpayers

Income Tax Assessment Act 1936

1 After section 174

Insert:
174A Taxation receipt to be provided with notice of assessment

(1) A notice of assessment for an individual under section 174 for the financial year ending 30 June 2011 or any later financial year must be accompanied by a taxation receipt, setting out:

(a) a break-down of how the amount of the assessment was spent on different functions in the financial year (calculated by applying the proportion of the Budget expenditure on each function to the amount of the assessment); and

(b) the level of Australian Government net debt.

(2) A taxation receipt for subsection (1) must, at a minimum, contain the information shown in the following table:

<table>
<thead>
<tr>
<th></th>
<th>Information to be included in taxation receipt</th>
</tr>
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<tbody>
<tr>
<td>1</td>
<td>The name and tax file number of the taxpayer.</td>
</tr>
<tr>
<td>2</td>
<td>The amount of the assessment.</td>
</tr>
<tr>
<td>3</td>
<td>The level of Australian Government net debt at the end of the financial year and at the end of the previous financial year.</td>
</tr>
<tr>
<td>4</td>
<td>The taxpayer’s share of the Australian Government net debt for the financial year, to be calculated by dividing the Australian Government net debt by the number of individual taxpayers.</td>
</tr>
<tr>
<td>5</td>
<td>How much of the taxation revenue raised under the assessment was expended for the welfare function, broken down into the following sub-functions: (a) aged pension entitlements; (b) disability pension entitlements; (c) family benefit entitlements; (d) unemployment and sickness benefit entitlements; (e) other welfare benefit entitlements.</td>
</tr>
<tr>
<td>6</td>
<td>How much of the taxation revenue raised under the assessment was expended for each of the following functions: (a) health; (b) education; (c) defence; (d) foreign affairs and economic aid; (e) recreation and culture; (f) housing and community services; (g) industry assistance and fuel subsidies; (h) public order; (i) transport and communications; (j) labour and industrial relations.</td>
</tr>
<tr>
<td>7</td>
<td>How much of the taxation revenue raised under the assessment was expended in transfers to the states, territories and local government authorities.</td>
</tr>
<tr>
<td>8</td>
<td>How much of the taxation revenue raised under the assessment was expended to service public debt interest.</td>
</tr>
<tr>
<td>9</td>
<td>How much of the taxation revenue raised under the assessment was expended for other public services.</td>
</tr>
</tbody>
</table>

Note: The amounts specified for the purposes of table items 5 to 9 are to be calculated by reference to the nominal proportion of Budget expenditure constituted by each function.

This amendment provides for the insertion of a new schedule 8, which will provide for tax receipts to individual taxpayers. The coalition, as you would be well aware, went to the election with a full suite of policies to further improve Australia’s system of taxation. We intend to continue our push for fairer, lower and simpler taxes.

One element of a fair tax system is transparency. Australians work hard to pay their taxes. The coalition understands that every
dollar collected in individual income tax is a dollar that a hardworking family cannot spend on housing, food, education, health and other cost-of-living expenses. Excessive taxes make it more difficult for individuals and households to support themselves. Excessive taxes reduce the wellbeing of taxpayers. It is individuals who can make the best decisions about how their money should be spent. Having said that, Australians will willingly pay their taxes when they believe and trust that the money will be well and carefully spent by their government. They know there is value to the community as a whole in well-run public services and facilities. They know there are needy people who deserve income support. Taxpayers are willing to do their bit for the public good but there is an implicit agreement with the government. Taxpayers are willing to forgo some of their income for the public good but they want to be assured that their money is, indeed, being well and carefully spent. More than that, they have the right to know how their money is spent.

Taxpayers do not have a good appreciation of where the tax they pay is spent by the government. Yes, the information is publicly available in the budget papers but these are not easily accessed or easily understood for that matter. Taxpayers also have a right to know how much the government spends in excess of funds collected from taxes and other sources. That excess spending must be funded through borrowing—and we have seen more and more of that from this government.

Again, information about that is not easily accessed by taxpayers. The difficulty in obtaining and understanding this sort of information leads to a situation where government spending is not subject to as much scrutiny by taxpayers as it should be. As senators in this chamber we understand about the difficulty in scrutinising government spending. We spend weeks, three times a year, going through Senate estimates from nine o’clock in the morning until 11 o’clock at night, and still we cannot get the answers. So how much harder is it for taxpayers to get access to the sort of information that they need to understand how this government is spending their money? The coalition believes the government should make it easier to access this sort of information. The intent of this amendment to the Income Tax Assessment Act 1936 is explicitly to require the Australian Taxation Office to inform individual taxpayers where their tax that was paid in a year has been spent and also to inform individual taxpayers of the total Commonwealth net debt in aggregate and their individual share.

I noted Senator Xenophon’s comments earlier about having concerns about using the net debt figure and the share of net debt, which is essentially the share of each individual taxpayer in the net debt position that is incurred by this government. But we on this side of the chamber believe that net debt is the most appropriate measure to monitor the level of debt that is imposed by this government on behalf of every single Australian. We could have gone for gross debt but there would be an argument that gross debt is not a true reflection. Net debt is the truest reflection of the burden that is carried by every individual taxpayer as a result of the decisions made by this government. That is our judgment and that is why we think that the share carried by each individual taxpayer of the net debt burden imposed on them by the government ought to be transparently declared in a receipt that goes along with the notice of tax assessment that is sent to taxpayers on a yearly basis.

We believe this greater transparency will enhance accountability for government spending and debt. The second amendment puts in place a new requirement for the Aus-
Australian Taxation Office to accompany the notice of assessment for an individual with a receipt showing how their tax paid has been spent in the financial year for which the tax assessment applies. The dollar amount spent on the key categories of government expenditure would be based on the nominal proportion of budget expenditure constituted by each function.

The amendment also puts in place a new requirement for the Australian Taxation Office to accompany a notice of assessment for an individual with a receipt showing, as I mentioned, the level of Australian government net debt. The amendment specifies the information which is to be included on the individual taxpayer receipt. Specific items to be included at a minimum are the name and tax file number of the taxpayer; the amount of tax paid by the taxpayer; the level of Australian government debt at the end of the financial year and at the end of the previous financial year so people can track how it has been progressing; how much of the taxation revenue raised under the assessment was expended for the welfare function, broken down into age pension entitlements, disability pension entitlements, family benefit entitlements, unemployment and sickness benefit entitlements and other welfare benefit entitlements; how much of the taxation revenue raised under the assessment was expended for the welfare function, broken down into age pension entitlements, disability pension entitlements, family benefit entitlements, unemployment and sickness benefit entitlements and other welfare benefit entitlements; how much of the taxation revenue raised under the assessment was expended for the welfare function, broken down into age pension entitlements, disability pension entitlements, family benefit entitlements, unemployment and sickness benefit entitlements and other welfare benefit entitlements; how much of the taxation revenue raised under the assessment was expended for other public services.

The coalition believes this amendment is an important reform in improving taxpayers' understanding of the budget process and of improving government accountability for its taxing and spending decisions. The coalition believes Australian taxpayers will welcome this amendment as strengthening their agreement with the government that their tax dollars should be spent wisely.

We understand that this government is not in favour of increased transparency or anything that would enable taxpayers to scrutinise the waste and mismanagement perpetrated by this government on the unsuspecting Australian taxpayers. But I certainly commend this amendment to my friends and colleagues on the crossbenches. Greens senators and Senator Fielding and Senator Xenophon, I do hope that you will very carefully consider the beneficial impact of this amendment in facilitating a greater level of scrutiny on government expenditure and as a result, hopefully, a change in behaviour—perhaps some more careful approaches to the spending of hard-earned taxpayers’ dollars into the future. With those few words, I commend the amendments to the Senate.
mat and in the same way as those of the government of the Liberal-National Party for almost 12 years. The same level of transparency and accountability in those budget papers is that which reflects the period of the previous government, so there has been a consistency in the approach to this matter under both governments.

There has been reference to Senate estimates committees. I have been in this place now for just over 20 years. I have to say that I have been to a few estimates hearings myself. In almost 12 years in opposition, I asked a few questions—I would hate to think how many if I sat down and added them all up—in the economic and finance areas in the main. From time to time there were questions left unanswered. There was difficulty in achieving answers. I could go into a lot more detail, but I will not on this matter. From time to time it was difficult to obtain answers from ministers at the table under the Liberal-National Party government and from time to time from public servants when they were obeying their political masters, and from time to time that has happened under this government. I have been the representative minister in large parts of the finance and Treasury estimates.

The budget updates will mean that the information on the tax receipt will differ depending on when taxpayers receive their assessment. Do not forget that the amendment would require the circulation of millions of individual pieces of, presumably, hard copy at enormous cost for printing and postage and return to sender, address unknown.

Senator Cormann—You are already sending an assessment.

Senator SHERRY—Yes, but you want to send more. That is my point. On the one hand, you argue waste and, on the other hand, you want to add to it. That is totally inconsistent. There are budget updates that will mean the information on the tax receipt will differ depending on when taxpayers receive their assessment. Something printed on paper today or just after the budget obviously may not reflect the precise circumstances tomorrow. With the way we are going in this chamber, with the opposition opposing just about everything, the notice going out to taxpayers will be inaccurate. It will not reflect what is in the budget papers because, on current performance, the opposition is opposed to almost everything in the budget. So it is not going to be accurate when it is printed and sent out.

The proposal also does not accurately reflect the significant contributions that other taxes or charges such as business tax make to funding welfare, health, schools, highways, environment projects, consular services or defending our country. I would like to see, if we were going down this path, specific categories covering financial regulation, for example. I could find out where some of my tax dollars go by looking at the APRA and ASIC budget in the budget papers. I think for many people in the community that would be a perfectly valid item of expenditure on this document that the opposition is proposing and I am sure there are lots of other perspectives of budget information. The point is, of course, that you can obtain this information in the public domain if you wish.

I have touched on cost and complexity for the ATO. This is probably the brainchild of the shadow Treasurer, Mr Hockey. I notice he has had a fair bit to say on financial regulation recently, but I would be very cautious about any of Mr Hockey’s adventures into disclosure documentation if I were the opposition. Most people have forgotten, in the fullness of time and history, but Mr Hockey was the master who designed the Financial Services Reform Act, and what a disclosure mess that resulted in—incomprehensible documents on disclosure under the FSR for
financial consumers of 50 to 100 pages that no-one could read or understand, including some of the participants in the financial sector, including Mr Hockey. It was one of the most extraordinarily expensive red tape exercises in Australian history. So we should be very cautious about adopting suggestions from the current shadow Treasurer, Mr Hockey, when it comes to disclosure.

Aside from cost and complexity, there would be some legal implications in providing the information in the manner which is suggested. There are other issues, such as if taxpayers were not satisfied with the published allocation—published, I might add, in a fairly unsophisticated format, on a single piece of paper. I do not know how you would get all that on a single piece of paper. It would be pretty small writing, I would think. The writing would be smaller than on the sheet of amendments, in order to get the explanation and all the figures down. I doubt you would get it on a single piece of paper. Putting aside the fact that it would be physically difficult to read, there are significant resource implications. The amendments would also result in an extra document in circulation displaying the tax file numbers of PAYG taxpayers. That raises security concerns. It is not a good idea to have documents with tax file numbers on them circulated in this way. It is important to try and minimise that. I know it has to happen, but it is important to minimise that.

The reality is that there is no policy substance to these amendments. We do not accept that the amendments are appropriate, we do not accept that we are in a set of circumstances where they are necessary, and I would ask the Senate to not support them.

Senator JOYCE (Queensland—Leader of the Nationals in the Senate) (9.03 pm)—
Since we are living in an age of light and transparency, where everything is so obvious, I just have three questions to ask the minister. He has his two good colleagues sitting beside him, so he should be able to get the answers. Could he tell us: what is our exact gross debt today? What is our net debt? And could he explain to me the difference between the two figures—what we are taking off one to get to the other?

Senator SHERRY (Tasmania—Minister for Small Business, Minister Assisting on Deregulation and Minister Assisting the Minister for Tourism) (9.03 pm)—I will have to take that on notice, Senator. Just before you rush in, if it had been question time, Senator Wong would have had the figures in a folder. I am not a representational minister. The officers here do not have those figures. I am happy to take the question on notice. I think we could provide the figures for you tomorrow but, I am sorry, we cannot get them at this hour. If I had the folder in front of me, I could, but I am not the representational minister.

Senator JOYCE (Queensland—Leader of the Nationals in the Senate) (9.04 pm)—I must be a freak because I always keep them in the back of my head. Your gross debt today is $172.7 billion. As to your net debt, God only knows. Who would know what it is? You could never deliver us the details to explain. We have had a question on notice for you for some four or five months to try and explain the difference between the two figures and you have never delivered the answer to us. Your debt last week went up by $2.8 billion. I think the Australian people have a right to know that. If we are now living in this wondrous new time of light—the time of removing tinea; the time of getting everything out into the open air—why would you not tell the Australian people exactly what they owe, who they owe it to and what they are spending it on?
Senator CORMANN (Western Australia) (9.05 pm)—This government is all talk and no action. We were promised a new era of openness and transparency. We were promised that this government, under the so-called new paradigm, was going to let the sunlight in. Instead, we are still sitting here in a darkened room being fed like mushrooms.

Senator Joyce—Living like tinea.

Senator CORMANN—Indeed. Whenever there is an opportunity to put their money where their mouth is and whenever there is an opportunity to demonstrate a genuine commitment to increased transparency, this government fail. They are addicted to spending, addicted to new and increased taxes, addicted to ever-new levels of debt. But when it comes to being accountable to taxpayers about how their money is being spent by the government, the government come up with excuse after excuse as to why it supposedly cannot be done. The minister says, ‘It will have to be really small writing and nobody will be able to read it.’ I actually have a sample here. If the minister wants me to table it for his benefit, it can be done. I see that his advisers have a sample for him. Is this too small for the minister to read? Is this too small for the minister to understand how the government are spending taxpayers’ dollars? It is just an excuse.

All of us receive income tax notices of assessment on a yearly basis. There is a little bit of writing at the top of the piece of paper—I am sure that all of us in this chamber have had the same experience. It is a waste of paper really, because there is hardly any information on it. There are three lines at the top, and all you look at is how much the government has taken off you and how much you might get back because you have paid too much. And that is the end of it. There is a lot of space on that piece of paper—on the back of it in particular. If the government were serious about being open and transparent about the way it is spending taxpayers’ dollars, it could be done at absolutely minimum expense. It is a small expense in relation to the benefit to taxpayers from governments being more cautious and careful in the way they spend taxpayers’ dollars. There would obviously be a significant benefit in having a government that is more accountable about the way taxpayer dollars are spent across the many services of government.

This government incurs more and more debt every day. Of course it does not want to be accountable about that. It wants to keep that hidden. It is so complicated to find that figure, as Senator Joyce has just mentioned to the chamber. It takes members of parliament months to get information out of this government. We are members of parliament; we are supposed to be able to ask questions and get answers. We are supposed to be able to get information from this government, but we are not able to get it. We need a law passed by this parliament which requires the government to be accountable about the way it spends taxpayers’ dollars and about what the net debt position is on a yearly basis. Australians deserve to know how the net debt position that is imposed on them by this government tracks from financial year to financial year. Australian people deserve to know how much they have to pay through their taxes every year to service that debt. People deserve to know how much money has to go into servicing that debt. That is money that cannot be spent on health, education, defence and all of the other important services that are provided by governments.

The reality is: this government does not want people to know. This government has got a lip-service commitment to increase openness and transparency when really this is a very secretive government. This government is more secretive now than it was when Kevin Rudd was the Prime Minister. It
was not grand when Mr Rudd was the Prime Minister, but it is worse now. As far as the commitment to openness and transparency is concerned, this government has been going backwards. Ms Gillard conceded that Kevin Rudd had lost his way, but I have got to say that she is on the way backwards when it comes to improving openness and transparency. She is probably so busy dealing with all the bushfires across government that she does not have time to deal with some of these issues. The reality is that it is time that this government started to put its money where its mouth is and supported initiatives like this that will clearly improve the accountability of government with respect to how taxpayers’ money is spent.

Senator JOYCE (Queensland—Leader of the Nationals in the Senate) (9.10 pm)—I have another quick question on this age of light. We know that from your gross debt figure you take off an amount known as ‘other’ to come back to your net debt figure. Seeing as we are living in this age of light and you have got your two good assistants beside you: what is the amount that you now have in ‘other’ that is taken off your gross debt figure to get to your net debt figure? Can you please tell me what makes up that figure of ‘other’?

Senator SHERRY (Tasmania—Minister for Small Business, Minister Assisting on Deregulation and Minister Assisting the Minister for Tourism) (9.11 pm)—Firstly, I would point out that the issues you are asking about are not contained within the legislation we are considering—

Senator Joyce interjecting—

Senator SHERRY—Calm down; wait a moment. Therefore, the advisers I have before me cannot give you advice on that. The advisers here are not privy tonight, although we may be able to do something for you tomorrow, Senator Joyce.

Senator Joyce—You are shadow minister for finance, aren’t you?

Senator SHERRY—No, I am not. I know you have trouble with the concept of a shadow minister for finance. I know you have that problem or did have that problem. I am the Minister for Tourism, the Minister Assisting on Deregulation—

Senator Joyce—Assistant Treasurer.

Senator SHERRY—No, I am not Assistant Treasurer. I was once, before the last election. My responsibilities have changed. I am now representing, in this chamber, the Assistant Treasurer. But whatever the representational nature of issues in this chamber, Senator, the legislation does not go to the issues you are asking questions about; however—

Senator Joyce—What does?

Senator SHERRY—Just wait until I finish. However, it is relevant to the amendment moved by Senator Cormann. I will accept that. I accept that there is an argument, but I do not agree with it. My officers, as I indicated in answer to your earlier question, do not have those answers here tonight. I think I have got a reasonable reputation for responding and, as I said with respect to the earlier figures, we will obtain them tomorrow. We will provide them as soon as we can. We simply do not have them here tonight.

Senator JOYCE (Queensland—Leader of the Nationals in the Senate) (9.13 pm)—It is amazing that you are representing all of these people here tonight and the issue is one of transparency. As Senator Cormann has clearly pointed out, we do not get transpar-
ency at all—not at all. The answer to your question is that $72 billion is now nominated in ‘other’. For the life of us on this side, we cannot get any information out of you, even though the due date has passed for that to be given back to us via Treasury.

It just does not matter what we ask; we do not get the answers anymore on this side of the chamber. Seventy two billion dollars worth of ‘other’—how many rats and mice can you stick in a column and nominate as ‘other’? When I was an accountant, if someone stuck more than $1,000 in ‘other items’ you would analyse it, you would pull it to pieces. In auditing, it was always a red rag to a bull. But you in this government have $72 billion in ‘other’ and you will not tell the Australian nation what actually makes up ‘other’. We are asking—Senator Cormann is asking—for a sense of transparency.

I know that it seems mysterious that the Australian people might want a little bit more information than you are currently giving them. And you are here tonight telling us that you are going to give to us tomorrow what we have been asking for from Treasury for four or five months. What is the Labor Party’s problem with transparency? Why don’t you come into the chamber actually knowing your facts? Why don’t you have the people beside you who actually know the absolute basic facts?

Senator XENOPHON (South Australia) (9.15 pm)—I want to indicate my position in relation to this. I have had an opportunity to speak briefly to Senator Cormann about it. I think some aspects of this have some merit, particularly in relation to gross and net debt and providing a breakdown of where taxpayer dollars go. I think Senator Joyce asked a number of pertinent questions in relation to that. I wonder whether there is some additional complexity in relation to that.

Whilst I will not be supporting these amendments, I will be proposing to amend the motion that the report of the committee be adopted such that the amendments proposed by Senator Cormann be referred to the Senate Economics References Committee to report by 31 March 2011. That way, the practicalities of it and any unintended consequences can be assessed in a relatively timely fashion. I think that might advance the debate in relation to this, because I am working on the assumption that the opposition genuinely wants to have a greater level of transparency and I want to see a process to have it robustly examined.

Senator CORMANN (Western Australia) (9.17 pm)—We think that this is a pretty straightforward proposition. There is annual tax paid by every individual taxpayer. They receive a notice of assessment which indicates how much tax they have to pay in a particular financial year. There is a budget for that financial year. There is a budget outcome for that financial year. You can divide the amount of money that is spent in particular areas by the share that is payable by each individual taxpayer—as I outlined in my comments on the amendments. You should be able to easily assess the net debt position of the Commonwealth in simple terms by deducting the Commonwealth liabilities from the asset position.

When we were in government we had a negative net debt position because the government assets exceeded government liabilities, but under this government we are in the position of looking at about $94 billion worth of net debt in the course of this financial year and, as Senator Joyce has mentioned, $172 billion or thereabouts of government gross debt now.

These are not very complicated amendments. They can easily be dealt with by the government. The Australian Taxation Office
will always advise governments to resist additional scrutiny and resist increased levels of transparency and additional reporting requirements—that is well understood. But we want the Senate to make a decision in relation to these amendments. Should the amendments not be successful, we will welcome any consideration that might be given by the Senate Economics References Committee.

We will continue to pursue this proposal for increased government transparency and we hope that the Senate will support our very sensible recommendation to ensure that every individual taxpayer is provided with a tax receipt with an appropriate level of detail—not an excessive amount—showing how their hard-earned money, which is taken from them by the government in the form of taxes, is being spent by the government. We think that this will ensure that governments spend their dollars more wisely. This is in the context of a federal Labor government which over the last three years has been wasteful, has mismanaged taxpayers’ dollars and has imposed massive levels of new taxes over three budgets—more than $40 billion worth of new taxes. The government has imposed massive levels of new debt—$94 billion of net debt during this financial year—and it wants to take another $50 billion worth of state GST revenue away from the states in its constant effort to cast around for more cash to feed its addiction to wasteful spending. I again commend these amendments to the Senate and I hope they will get the support of the Senate.

Senator Joyce (Queensland—Leader of the Nationals in the Senate) (9.21 pm)—Just one thing, because I am fascinated—there are issues of transparency, and you have really inspired me tonight. We are apparently going to get the answer tomorrow to a question that we asked on notice. We are talking about transparency, they are asking about transparency and they say ‘you’ve got it’, but we gave that question on notice to you, Minister Sherry, at the end of May. You have had six months to explain the $72 billion in ‘other’. You were supposed to reply to that question by the end of July. You never did. It is now November. It is six months after we asked the question and four months after you were supposed to reply, and you never did. You wonder why in this place we would ask a question about transparency and letting the sunlight in, so let us be honest: when you do not want to answer a question, you just do not—you hold the whole place in contempt. It is all very well for you to come in here and say, ‘I’ll answer you tomorrow’, but the point is that for the last four months we have been waiting on your reply, and we have not had one. I do not know whether that is because you do not know the answer or because you do know the answer and just do not want to tell us.

Question put:
That the amendments (Senator Cormann’s) be agreed to.

The committee divided. [9.27 pm]

(The Temporary Chairman—Senator G Barnett)

Ayes........... 29
Noes........... 31
Majority........ 2

AYES

Adams, J. * Back, C.J.
Barnett, G. Bernardi, C.
Birmingham, S. Brandis, G.H.
Bushby, D.C. Cash, M.C.
Colbeck, R. Coonan, H.L.
Cormann, M.H.P. Fierravanti-Wells, C.
Fifield, M.P. Fisher, M.J.
Humphries, G. Johnston, D.
Joyce, B. Kroger, H.
Macdonald, I. Mason, B.J.
Minchin, N.H. Nash, F.
Parry, S. Payne, M.A.
Ronaldson, M. Ryan, S.M.
Adoption of Report

Senator SHERRY (Tasmania—Minister for Small Business, Minister Assisting on Deregulation and Minister Assisting the Minister for Tourism) (9.30 pm)—I move:

That the report of the committee be adopted.

The ACTING DEPUTY PRESIDENT (Senator Barnett)—Senator Xenophon, are you seeking the call?

Senator XENOPHON (South Australia) (9.31 pm)—Yes. The advice I have received—and obviously the Clerk’s office can advise further on this—is that I will be seeking to move an amendment to the motion that the report of the committee be adopted. Is this the appropriate time to do so?

The ACTING DEPUTY PRESIDENT—Indeed, Senator Xenophon. Please proceed.

Senator XENOPHON—Thank you. I move as an amendment to the motion that the report of the committee be adopted:

At the end of the motion, add “and the amendments proposed by Senator Cormann on sheet 7010 be referred to the Economics References Committee for inquiry and report by 31 March 2011.”

I seek to make a short statement of no more than two minutes.

The ACTING DEPUTY PRESIDENT—Leave is granted for two minutes.

Senator XENOPHON—Very briefly—and I think I can do this in less than one minute—the terms of the motion are self-explanatory. I think that if the coalition are serious about this transparency reform—and I am not suggesting that they are not—in order to properly advance this, there ought to be a process where it is looked at by the Senate Economics References Committee in order to look at the feasibility of this, the format in which it would be laid out, any potential difficulties and the like. It could get advice from Treasury, consumer groups and
taxpayers’ associations to see the best way forward in relation to achieving broadly the objectives set out in Senator Cormann’s amendments.

**Senator CORMANN** (Western Australia) (9.33 pm)—I seek leave to make a brief statement.

The **ACTING DEPUTY PRESIDENT**—Leave is granted.

**Senator CORMANN**—The coalition are very serious about ensuring increased transparency and appropriate levels of scrutiny and accountability on government expenditure of taxpayers’ dollars. We are of course disappointed that government senators, along with the Greens and Senators Xenophon and Fielding, have voted against the very sensible transparency measure which we recommended to the Senate; however, we are very keen to see this proposal pursued further and, in that spirit, we will be supporting Senator Xenophon’s recommended referral of our proposal for increased transparency and accountability on government expenditure to the Senate Economic References Committee.

**Senator SHERRY** (Tasmania—Minister for Small Business, Minister Assisting on Deregulation and Minister Assisting the Minister for Tourism) (9.34 pm)—I seek leave to make a short statement.

The **ACTING DEPUTY PRESIDENT**—Leave is granted for two minutes.

**Senator SHERRY**—The government will not support the amendment but we will not call a division. I think I can anticipate the way the chamber will go. The amendment proposes that the proposal from the opposition be referred to a committee, so it is not affecting the passage of the legislation, as I understand it. The one point I would make, however, is there has not been consultation with the Senate Economics References Committee about this, as I understand. I do not know what their workload is, their time frames et cetera. I just raise a practical issue that I think we should have some consideration of when we act in this way as a chamber. I appreciate Senator Xenophon attempting to guide us and make some progress in terms of legislation, but I think there is that practical issue that we should consider when considering references in this manner without consultation.

**Senator IAN MACDONALD** (Queensland) (9.35 pm)—Mr Acting Deputy President, this is a motion of amendment. Do you need leave to speak? I would have thought we were just speaking on the amendment.

The **ACTING DEPUTY PRESIDENT**—Each speaker to date has sought leave to speak on Senator Xenophon’s amendment. If you would like to seek leave for a few minutes—

**Senator IAN MACDONALD**—I do not particularly want to seek leave. I assumed that, being an amendment, any senator would have the right to speak on the—

The **ACTING DEPUTY PRESIDENT**—It is being considered as an amendment to a procedural motion and, as such, the advice I received is that each senator seeks leave. Each senator has sought leave and it has been granted. On that basis, I would be more than happy to take your advice. Senator Macdonald, if you wish to seek leave, I would put that to the chamber.

**Senator IAN MACDONALD**—I do want to seek leave; I just had a couple of points.

The **ACTING DEPUTY PRESIDENT**—Leave is granted.

**Senator IAN MACDONALD**—I mirror the comment made by Senator Cormann that it is unfortunate that the opposition’s amendments were not agreed to. That being the case, though, I think that the proposal by Senator Xenophon is well worthy of merit. I
heard what the minister said about his concern for the committee, but I am sure the committee will be able to handle this. As Senator Cormann said, it is important that we do get the widest range of advice so that we can work out the best way to implement this proposal. We think we had the best way, but, as we were not able to achieve the consent of the majority of senators, perhaps the next best way to go is to have those investigations done through a Senate inquiry that would report back at the date indicated by Senator Xenophon.

The ACTING DEPUTY PRESIDENT—
The question is that the amendment moved by Senator Xenophon be agreed to.

Question agreed to; report, as amended, adopted.

Third Reading

Senator SHERR Y (Tasmania—Minister for Small Business, Minister Assisting on Deregulation and Minister Assisting the Minister for Tourism) (9.38 pm)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

TERRITORIES LAW REFORM BILL 2010

Second Reading

Debate resumed from 17 November, on motion by Senator Feeney:

That this bill be now read a second time.

Senator HUMPHRIES (Australian Capital Territory) (9.39 pm)—I rise to speak to the Territories Law Reform Bill 2010, which for the most part effects a series of reforms to the governance of Norfolk Island. The legislation covers a wide range of administrative arrangements affecting Norfolk Island to put in place mechanisms for accountability of the administration of that self-governing jurisdiction which would be very familiar to citizens of any other part of Australia. It, for example, provides that members of the Norfolk Island public service should be governed by a code of conduct. It applies, in effect, arrangements for financial statements of the Norfolk Island administration to be audited by the Commonwealth’s Auditor-General. It provides that the Commonwealth Ombudsman and the Administrative Appeals Tribunal at the Commonwealth level operate on Norfolk Island and that there be the capacity for merits review of decisions made by the Norfolk Island administration. It applies the provisions of the Freedom of Information Act 1982 and the Privacy Act 1988 to information held by the Norfolk Island administration and government.

All in all, this affects a range of reforms which might be said to bring the Norfolk Island administration into a contemporary setting with respect to the standards applying in other parts of Australia. I think it is fair to say that these changes have been sought by the Commonwealth for some time by not merely the present Gillard government but also by the previous Howard government. They reflect in addition a number of suggested changes to the structure of the Norfolk Island administration that have their origins in reports of the Joint Standing Committee on the National Capital and External Territories.

It would be easy and tempting to see this package of reforms as simply dragging the Norfolk Island government and administration into the 21st century and rectifying glaring and serious omissions in the way in which the government of that island has occurred for some time, but I would caution the Senate against seeing things in quite such a simple way. It is clear that, in some respects, by comparison with other Australian mainland jurisdictions, Norfolk Island’s arrangements have been wanting, but it is also important to remember that Norfolk Island is
a self-governing territory with a very long history of uniqueness and isolation from the rest of Australia. Indeed, Norfolk Island was in fact a British colony until well after Australia federated and became an independent nation. Of course, famously, the citizens of Norfolk Island originated on Pitcairn Island, in the middle of the Pacific, and migrated to Norfolk Island in the middle of the 19th century at the invitation of Queen Victoria to settle what had until then been a possession of the British which was only intermittently occupied since discovery by Captain Cook in 1774.

So the arrangements for the governance of Norfolk Island have always been quite unusual and the independence of the islanders with respect to their affairs, and particularly to their governance, has always been jealously guarded and protected by those people. The Commonwealth exercises its paramount power over Norfolk Island with, I think, some level of care and even trepidation. We do not wish to simply tell the islanders what we think is best for them but, hopefully, effect reforms of this kind in a process which reflects some negotiation between the parties. Through the work of successive national capital and external territories committees—Senator Lundy, who is in the chamber, is the immediate past chair of that committee—it has been impossible to conduct a very active debate with the parliament and people of Norfolk Island about the nature of these reforms. I note that today the government of Norfolk Island is on record as supporting the changes which are passing through this parliament, although it does need to be said, with a slight degree of hesitation, that that goes back to earlier iterations of the position of the Norfolk Island government, which were somewhat different to the provisions that are now before the Senate.

The federal parliament, in passing this legislation, has to make a very clear decision about how it deals with a difficult question of balance. On the one hand we have an obligation to impose minimum standards of accountability and transparency in the operation of the government of Norfolk Island—a government which has not until now had basic provisions for FOI or ombudsmen’s roles. We need to ensure that basic standards are maintained and that the democratic apparatus which any Australian citizen enjoys is available to some extent to the people of this self-governing territory. On the other hand, we need to respect the uniqueness of the island’s position, we need to acknowledge that isolation of the kind that Norfolk Island has experienced brings with it both advantages and disbenefits and we need to ensure that, as much as possible, we bring the island population and those who are elected by the island population to govern it along with us in these processes. I think that, broadly speaking, this legislation is able to achieve that.

The changes themselves provide for a number of different mechanisms with respect to the operation of the island’s government and parliament and also with respect to the island’s administration. It provides, for example, that there is a greater role for the Governor-General and the responsible Commonwealth minister in the passage of certain legislation which is considered by the Norfolk Island parliament. It provides that the selection of and the roles of the chief minister and other ministers is a matter limiting the number of ministers that might be appointed. It allows the removal of the chief minister by the administrator in exceptional circumstances. It enables, as I mentioned before, regulations to be made for a code of conduct to be enacted for members of the Norfolk Island Public Service. It provides for minimum and maximum fixed terms of the Legislative Assembly. These are all arrange-
ments which hitherto have not applied on the island.

It also, in effect, imports a number of administrative changes to the operation of the island’s public service and provides those mechanisms that I mentioned before—the Commonwealth Auditor-General, the Commonwealth Ombudsman and Administrative Appeals Tribunal, the Freedom of Information Act 1982 and the Privacy Act 1988—to be applied in one form or another to the island’s administration. Those are significant and important reforms which are welcomed by the opposition, though with the acknowledgment that there is an extent to which these changes will be difficult to effect on an island which has a population of about 1,500, a voting population of about 1,000 to 1,200 and, necessarily, a very small public service. We need to acknowledge that importing the entire structure of institutions available in much larger states and territories and in the Commonwealth into the administration of Norfolk Island may occasion some difficulties and may not easily be transferred in that fashion. Indeed, the coalition in the other place moved an amendment to allow for some more flexible arrangements to be put in place with respect to, in particular, the provisions dealing with freedom of information and legislation under the Privacy Act.

The coalition is aware that the government has been able to negotiate with Norfolk Island for there to be particular arrangements for the Commonwealth Ombudsman’s role to be imported into the Norfolk Island administration through its own legislation. It is a unique arrangement, and that was felt to be appropriate for the circumstances of Norfolk Island. In the case of the provisions dealing with the Privacy Act and the Freedom of Information Act, we moved in the other place that these provisions ought to be adapted for the Norfolk Island situation rather than simply applied willy-nilly. Those amendments were not accepted in the other place, and we therefore do not insist on them in this place, because we believe that, overall it is important for the island population to have the advantage of these provisions. But we indicate that, as far as we are concerned on this side of the chamber, we will be watching very closely to see how well these reforms are applied in practice to the experience of government on Norfolk Island. We expect that teething problems and problems to do with scale can be successfully negotiated. (Time expired)

ADJOURNMENT

The PRESIDENT—Order! It being 9.50 pm, I propose the question:

That the Senate do now adjourn.

Mr Roger Drummond

Senator BILYK (Tasmania) (9.50 pm)—Tonight I stand with sadness in my heart to pay tribute to a great ambassador for Tasmania. I speak of that great Hobart icon Roger Drummond, who died suddenly on Thursday, 11 November 2010. I first met Roger some 15 years ago, but I knew of him long before that. He was a respected man about town, a man known by many.

Roger Drummond was born on 11 November 1947 in Iraq to British parents who eventually settled in Australia. Roger’s early childhood was spent in the Tasmanian highlands in the small Hydro Tasmania village of Bronte Park. The family moved to the Huon Valley for a time and eventually settled in Hobart, where Roger completed his schooling. He went to the University of Tasmania, moved to Melbourne for a time where he worked for Shell, returned to Tasmania and completed an economics degree at the university, and worked as an accountant and in the finance industry with Citibank. With his wife, Lee, he owned and operated a number of catering establishments and pubs, including Newlands House, the Goulburn, Hadley’s
and Nickleby’s. He worked in real estate before joining Hydro Tasmania in 1995 and, after it was disaggregated in 1998, worked for Aurora Energy.

Roger Drummond, or ‘Drummo’, was a lot of things to a lot of people. He was a son who was devoted to his parents, Frank and Mindy. He was a brother to Pev. Roger was a loving and devoted husband to Lee—they married in 1968—and a wonderful father to four now-adult children: Kelly, Georgie, Sam and Jacqui. He was a grandfather, a sportsman, a mentor, an accountant, a teacher, a publican, a real estate agent, a salesman, a lover of old cars. He was a great digger of ditches and builder of fences and in his spare time he was also a renovator of homes. At one stage when the children were little, the family lived in 13 houses in 10 years. Roger was known for his sledgehammer approach to renovations—enhanced with a chainsaw if he thought the window might be needed! Apparently the chainsaw also came in useful in the gardening department.

He was a fantastic host and a fantastic guest. He was great at cooking on the barbecue, just amazing. He loved making sure everyone else was looked after with food or drink. He just loved doing things for people. He was known far and wide and had a huge circle of friends and acquaintances. It long been said that if you walked down the street in Hobart with Roger Drummond, every second person said hello to him. They remembered him because he was kind and generous, always ready to help and always prepared to do what he could. Roger was thoughtful and cared about his friends and the community. He was a man once met never forgotten. He was a big man with a big heart and he will leave a big gap in many people’s lives.

Roger’s great love, besides for his family of whom he was extraordinarily proud and to whom he was devoted, was sport. Roger was an outstanding sportsman and nationally recognised coach. He represented Tasmania in rugby and rowed King’s Cup for Tasmania, winning a number of national titles. He was a stalwart of the University of Tasmania Rugby Union Club in the 1970s. He led the rugby club as president and senior captain. He led the club to its first senior state premiership for nearly 10 years when it defeated Glenorchy in 1978.

He was a senior rowing coach at several of Hobart’s private schools, the most recent being Hutchins. He coached for many years at the New Norfolk Rowing Club. In the words of Peter Wade, President of Rowing Tasmania:

Roger was one of Tasmania’s finest rowing coaches and his knowledge of rowing is second to none. There are countless young women and men that have benefited from Roger’s wise counsel and sage advice. As a coach, Roger had the uncanny ability to engage with his athletes, understand exactly what each individual needed and was then able to encourage, persuade and convince that athlete to achieve way beyond the limitations that they may have placed upon themselves. He encouraged people to believe in their ability, to be part of a team and to perform at levels that surprised us all. Roger would have a special word and a little message for each of his rowers that would set the scene and give them the self-belief to take on all comers.

Roger could take a bunch of fairly average athletes and turn them into champions. So many of his proteges are lifelong friends they share a common bond, a bond that was forged by Roger Drummond.

Roger Drummond was far more than a rowing coach; he was a life coach. He had a rare gift of communication. He was astute and honest but his comments were always fair and considered. He was always able to get his message across with humour and instilled in his group self belief and teamwork—nobody could take offence at his cheeky humour. His message was always clear
and positive, he got the best and gave his best to all those around him.

As well as rugby and rowing, he played tennis for many years and the occasional round of golf. Roger was a noted sailor who competed in several Sydney to Hobart yacht races, finally giving up that activity after the yacht he was on in 1993 sank. I must admit, I was never quite sure of his role in that escapade.

Roger died too soon. He was only 63, but he died doing what he loved—he had stepped out of work to go and set up the Hutchins School boats for the afternoon. Roger was not only respected but also loved by his teams. Testament to this is the number of team members from over the years at Roger’s funeral, held last Friday. There were people in their 40s who Roger had trained, and the current crew of rowers and people of all ages in between. In his honour, there was an archway of oars for the coffin to travel through and more outside, where so many rowers and past rowers wanted to participate that they took it in turns holding the oars upright.

During his time as the Friends’ School coach he had many successes, winning many Head of River, state championships and national championships. Many of Roger’s athletes went on to represent Australia at Olympic Games and world championships. Two of his champion rowers from the Friends’ School days, Kate Hornsey and Kerry Hore, won silver medals in New Zealand at the recent world championships. He encouraged his crews to compete and win, but always to enjoy and grow from the experience. There are at least two boats named after him.

The last 15 years of Roger’s working life were spent at Aurora Energy. He brought a wealth of sales and life experience to the sales group where he account-managed the largest of Aurora’s retail customers and led the sales group. He was the momentum behind Aurora’s push into national markets in the middle of this last decade. His passion and vision were instrumental in this being a success. He always remembered the importance of his Tasmanian customers and formed strong relationships with his many customer contacts. Indeed, many of these led to strong personal friendships.

Roger’s work colleagues received a large number of condolence messages from his work contacts and customers in what was a tribute to Roger’s ability to develop professional relationships based on his personal values of honesty, fairness and integrity. There is no doubt amongst his work colleagues that Roger left a huge legacy. He was a wonderful, warm, fun-loving character. Roger was energetic and hard working. He loved to have a go. He was enthusiastic and passionate about his work and that rubbed off on his workmates. People turned to him for guidance as he had common sense and a practical way of dealing with problems and issues. His advice was always clear, sensible and straightforward. His work colleagues remember him because he was kind and generous, always ready to help, always prepared to do what he could. He was thoughtful and cared about his friends and the community.

Testament to the great respect Roger was held in by his work colleagues are the many messages in the condolence book organised by his colleagues. I read these messages on Sunday afternoon amongst tears of sadness and tears of laughter: messages of love to Roger, funny stories retold—although never in the same way Rog could—even cartoons, all depicting the great man he was. I know in the future this book will bring joy and pride to his family and friends.

Roger was a dyed-in-the-wool Liberal voter and loved to stir me up, but there was never any malice with Roger. If he thought
you were right, he would say so and if not, he would tell you. He called a spade a spade and was not at all fussed by not being politically correct. Roger was a classic with the jokes, always ready with a laugh and he never let the facts get in the way of a good story. Selfless in life, ironically his last words were: ‘I’ve just come to help.’

Roger Drummond was a unique person, one I am truly honoured to have had the privilege of knowing. Thanks for keeping an eye on Bilyk in my absences and for being the colleague and mate to him that you were, Rog. I know he loved your road trips so much and he will miss you more than you will ever know. He is devastated by your passing, but as you would wish, he will move on. Every glass of red I drink will honour you, mate. That is the first thing I realised Roger and I had in common, with his fantastic quote: ‘Life’s too short to drink white wine.’ Roger has left a great legacy in so many different areas. I do not think I have done him any justice tonight. There is just too much to say about the great man that he was.

**Seafood Industry: Country of Origin Labelling**

**Senator CROSSIN** (Northern Territory) (9.59 pm)—I rise tonight to speak about an issue that is being strongly supported by the various seafood industry bodies around Australia, and that is the matter of clear labelling of country of origin for all our seafood, both fresh and processed. During this year’s federal election the National Seafood Industry Alliance issued its policy statement, and one of its key policy positions was the mandatory labelling of seafood to ensure that consumers are able to make informed choices about their seafood. Since 2006 it has been a legal requirement that unprocessed seafood sold to the Australian public must be clearly labelled with its country of origin. However, this requirement is only binding on retailers of fresh seafood. So, if you are selling fish for immediate consumption—for example, restaurants, clubs, bars or your local fish and chip shop—you are exempt from this labelling requirement. In this country, only when you buy fresh fish in any fish shop or at the market is that product clearly labelled as ‘Australian’ or ‘imported’. But when we go into your local pub for a counter meal of fish and chips or to a high-end seafood restaurant, you have no idea whether what you are ordering is Australian caught or imported. A restaurant may choose to disclose the origin of the seafood it is serving but it is certainly not required to do so—except, I am delighted to say, in the Northern Territory, another area it is a leader in. In November 2008 the Northern Territory government put in place licensing conditions under the Northern Territory Fisheries Act which require retailers serving imported seafood for public consumption to clearly identify if the product is in fact imported. This is the first such law in Australia. Why is such a law important?

*Senator Parry interjecting—*

**Senator CROSSIN**—Yes, Senator Parry, and I will pick that up. It is so that, if you are eating barramundi, you know it is Australian barramundi. That is correct. I have another colleague here championing the cause. I am delighted. This is the start of a campaign and I can say we have already got someone else signed up to it. That is great.

The National Seafood Industry Alliance, in its submission to a review of seafood labelling law and policy in November 2009, stated that research by the Fisheries and Research Development Corporation in 2006 had shown consumption of seafood had increased overall but the increase was bigger out of home—in restaurants and clubs—than at home. With more people eating out, the alliance therefore saw this loophole in man-
It is perplexing that only in the Northern Territory can you sit down at a seafood restaurant and look at the menu and know where what you want to eat has come from—and when you buy Northern Territory seafood you are buying fresh produce that comes from pristine waters in one of the most heavily regulated fisheries in the world. Yet, for many years, Territorians did not realise that many of the barramundi, prawns and other tropical species gracing their plates were actually frozen imports, sometimes coming from countries which have none of the strict environmental health and export controls that Australian fishermen have to observe.

Any seafood not harvested from Australian waters has to be clearly labelled as imported, and this label must be used on menus, menu boards, brochures, flyers and any other advertising. While this is not strictly country of origin labelling, it does allow the consumer to see whether they are being offered ‘Australian product’ or ‘imported product’—the two terms you will see most predominantly on the menus in restaurants in the Northern Territory. Cheap imports are damaging the high quality reputation of Australian seafood. Evidence shows that the Australian consumer is willing to pay more for quality seafood. I ask you to test that. If you go into a supermarket and you can see imported prawns and Australian prawns, even though the Australian prawns are a little bit dearer, nine times out of 10 that is the product you will buy because that is the product you can rely on for having the best taste.

The quality of our seafood is, I believe, well accepted, and it is on quality that we can compete with the imported product. Places such as Cairns and Darwin are known for seafood, and tourists are eager to eat some of our iconic products, such as our barramundi and snapper, in the restaurants that
abound in such towns. I am mystified as to why we do not have this mandatory labelling requirement nationally. Mandatory country of origin labelling has been in place for fresh seafood since 2006. It is now time to extend it to the food service and restaurant sector.

The Northern Territory Seafood Council and its chairman, the most appropriately named Rob Fish, say that there has been a big shift in awareness since the government’s seafood labelling laws came into effect in 2008. In a survey undertaken a year after the law was introduced, 66 per cent of consumers said that the seafood being local was the most important choice factor, almost 90 per cent said they would always, or almost always, buy local over imported produce; 71 per cent said they were aware that Territory dining venues must label seafood as ‘imported’ if it is not Australian, and 47 per cent said the main reason they chose local seafood was to support the local industry. So mandatory labelling has worked well and has been accepted in the Northern Territory. The absence of effective labelling requirements in the rest of Australia compromises consumer choice and undermines the Australian fisheries industry.

The management of our Australian fisheries is well recognised as world leading. It is regulated and controlled so that it is sustainable and provides a safe product for consumption. Without country of origin labelling, no certainty of choice exists. If diners buy an unlabelled product which turns out to be poor quality, they may simply be put off buying seafood altogether, and we do not want that result. We want demand for local seafood to remain strong. Without labelling, the consumer lacks the ability to make informed decisions based on freshness, safety, real cost and support for a sustainable industry. It would seem timely to now accept the recommendation of the National Seafood Industry Alliance and extend mandatory country of origin labelling for seafood to the restaurant and food service, to the food on your plate as you sit down to eat, in this country. I urge state governments to begin that campaign, to step up to the plate and to follow the lead of the Northern Territory.

Sutherland Shire Council

Senator FORSHAW (New South Wales) (10.10 pm)—I know that senators have over the years heard me rise in this chamber to speak of the Sutherland shire, an area that I am privileged to have lived in all my life and that I am very proud of. As many people know, it is known colloquially as ‘the shire’. It is said that when you google ‘Sutherland Shire’, it comes up as ‘God’s own country’. It is one of the most significant local government areas in Australia. It is the second largest local government area in New South Wales in terms of population, with around 220,000 residents.

It also contains some of the most significant historical and environmental locations in this country. I refer to such areas as the Kurnell Peninsula, where Captain Cook first landed, and the Royal National Park, which, it is argued—with a great deal of historical basis—is the oldest national park in the world. There is a debate going on at the moment as to whether the oldest is the Royal National Park or Yellowstone National Park. In any event, the Royal National Park is a significant national park in this country and internationally. Towra Point is recognised as a significant wetlands area for its unique flora and fauna, particularly the migratory birds. The Port Hacking River is a beautiful river between Cronulla and the national park, first navigated by Bass and Flinders in 1796. The beaches of Cronulla and Bate Bay are some of the most famous, and regarded as some of the best, beaches not just in Australia but internationally. They are the home of some of our greatest surf clubs. The area also
has other significant facilities: Australia’s only nuclear reactor and the significant oil refineries at Kurnell—and I could go on. It is a beautiful natural area with a thriving community, particularly for small business. It is also a very sensitive environmental area.

Why do I speak of the Sutherland shire tonight, and particularly Sutherland Shire Council? Firstly, because—it may be seen as a bit of a cliche but it is true—local government is closest to the people. We federal and state politicians may think that we are much maligned in the public arena; I can tell you that councillors—and I know this because my wife is on the council—receive very little praise and lots of complaints, everything from, ‘The garbage hasn’t been picked up,’ to more significant issues such as antisocial behaviour, graffiti and so on. We need to recognise just how important local government is in this country. This government, I am proud to say, has done that. We need to recognise just how important local government is in this country. This government, I am proud to say, has done that. It has picked up the tradition and the work that was done under the Whitlam government on giving local government a real place in the community. I congratulate Minister Albanese on his initiative in establishing the Australian Council of Local Government. The Rudd and Gillard government have provided substantial additional funds to local government, particularly through the stimulus package.

Tonight, I particularly want to congratulate the Sutherland Shire Council because it has achieved substantial recognition through a number of awards over the past 12 months. The most significant award that is granted to any local government area in this country is known as the AR Bluett Memorial Award. It is presented to councils, members of the Local Government Association. It really is the greatest accolade that a council can receive. The award is named after Albert Robert Bluett, who lived from 1879 to 1944. He was an outstanding figure in local government. He was appointed secretary and solicitor to the Local Government Association in 1910 and to the Shires Association in 1922 in New South Wales.

The Sutherland Shire Council won that award this year and in the citation the judges stated that the council:

... has demonstrated with this submission that it has delivered to the Shire a very wide range of services and facilities while providing strong local leadership in community development. The Trustees were impressed with the Council’s Community Strategic Plan and its focus on people, place, nature and governance.

The Council completed a number of significant capital works projects, finalised an important regional environmental project, embarked on an emerging leaders program for managers, implemented its comprehensive Anti-Social Behaviour Strategy, strengthened its role in economic development and implemented its innovative Ageing Well Strategy. These and many other activities, including its successful community events program, demonstrated that the Council has achieved a very high level of relative progress in 2009/2010.

The judges went on to list a number of specific projects. I will refer briefly to them. There was a project in Cronulla Central of $20 million, incorporating a new library, community hall, CBD offices, car park and commercial offices; the completion of the $10 million Engadine Community Centre, stage 1; the rehabilitation of the large waste disposal area at Lucas Heights, which has now become a regional sports facility and golf course development. The council finalised a voluntary planning agreement in an area of the Kurnell Peninsula where sand had been extracted for many years, which will see 91.3 hectares of open space transferred to the council and the development of 10 playing fields. This is a major achievement in an area that has needed remedial action for many years. The council has reconstructed the seawall on Prince Street, Cronulla. The beaches of Sydney and other coastal places...
are battered every 10 years or so, on average, by substantial seas and this results in major damage to the seawalls. It is an expensive undertaking to repair them. The council was also recognised for the construction of its new rural fire service stations at Engadine and Woronora and also for expanding services at what is know as the SSHED, the Sutherland Shire Hub for Economic Development—a business incubator which is now recognised around the country as a leader in that type of enterprise.

The council has won further awards. I mentioned earlier the new facilities at Engadine—a senior citizens centre and a community hall where local theatre groups, musical groups and others can put on performances. This is truly a magnificent facility. I know, because I drive past it most days when I am not down here. That facility was short-listed as a finalist in the BEM Property Consultants Local Government Award, along with the City of Sydney. The City of Sydney was nominated and short-listed as a finalist for its major renovations to the Sydney Town Hall. I do not mean any offence to the Sydney Town Hall, one of the most magnificent town halls in this country, but I am pleased to say that the winner of the award was Engadine Community Facilities. Another project that was recognised was the Sutherland Shire Hub for Economic Development, which I mentioned earlier. It was commended very highly by the New South Wales government for its program of dynamic support for entrepreneurs to increase their expertise and build better businesses. Time does not permit me to go through in detail some of the other achievements that the council was recognised for during the year.

I have read and heard speeches by other members of parliament, particularly in the New South Wales parliament—including some from my own party—that have been critical of local government. They have tried to transfer all of the blame from themselves to local government. It is important that we recognise the great achievements of local councils such as Sutherland Shire Council.

Senate adjourned at 10.20 pm

DOCUMENTS
Tabling

The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number. An explanatory statement is tabled with an instrument unless otherwise indicated by an asterisk.]

Air Services Act—Statement of expectations for the Board of Airservices Australia for the period 1 July 2010 to 30 June 2011 [F2010L02990].

Airspace Act—Airspace Regulations—Instruments Nos CASA OAR—

173/10—Determination of airspace and controlled aerodromes etc [F2010L03030].

174/10—Designation of air routes; Determination of conditions for use of air routes [F2010L03031].

Antarctic Treaty (Environment Protection) Act—

Antarctic Treaty (Environment Protection) Amendment Proclamation 2010 (No. 1) [F2010L03021].

Antarctic Treaty (Environment Protection – Historic Sites and Monuments) Amendment Proclamation 2010 (No. 1) [F2010L03020].

Australian Meat and Live-stock Industry Act—

Australian Meat and Live-stock Industry (Beef Export to the USA – Quota Year 2011) Order 2010 [F2010L03043].

Australian Securities and Investments Commission Act—Select Legislative Instrument 2010 No. 278—Australian Securities and Investments Commission Amendment Regulations 2010 (No. 4) [F2010L03015].

Broadcasting Services Act—Broadcasting Services (Primary Commercial Television Broadcasting Service) Amendment Declaration 2010 (No. 2) [F2010L03004].


Civil Aviation Act—Civil Aviation Regulations—Instrument No. CASA EX92/10—Exemption – recency requirements for night flying (Jetstar Airways Pty Limited) [F2010L02841].

Customs Act—Select Legislative Instrument 2010 No. 275—Customs (Prohibited Imports) Amendment Regulations 2010 (No. 2) [F2010L03011].


Fair Work Act—Fair Work (State Declarations – employer not to be national system employer) Endorsement 2010 (No. 2) [F2010L03029].

Higher Education Support Act—Declaration of List of Other Grants (Research) under Division 41 for 2011 [F2010L03056].

VET Provider Approvals Nos—
16 of 2010—Australian Academy of Vocational Education and Trades Pty Ltd [F2010L03022].
17 of 2010—Avondale College Ltd [F2010L03024].
18 of 2010—Alphacrucis College Ltd [F2010L03026].
19 of 2010—Actors Centre Australia Pty Limited [F2010L03027].

Migration Act—Migration Regulations—Instrument IMMI 10/052—Fees for assessment of qualifications and experience [F2010L02753].


Nuclear Non-Proliferation (Safeguards) Act—Select Legislative Instrument 2010 No. 276—Nuclear Non-Proliferation (Safeguards) Amendment Regulations 2010 (No. 1) [F2010L03016].

Payment Systems (Regulation) Act—Select Legislative Instrument 2010 No. 279—Payment Systems (Regulation) Amendment Regulations 2010 (No. 1) [F2010L03013].

Sydney Airport Curfew Act—Dispensation Report 06/10.

QUESTIONS ON NOTICE

The following answers to questions were circulated:

Defence: Accommodation
(Question Nos 47 and 54)

Senator Humphries asked the Minister representing the Minister for Defence upon notice, on 28 September 2010:
Do any of the departments or agencies within the Minister's portfolio consider that new or additional office accommodation may be required in the next 2 years; if so, would that accommodation be provided in Canberra; and if so, approximately how many staff are estimated to need accommodation in the new or additional offices.

Senator Chris Evans—The Minister for Defence has provided the following answer to the honourable senator's question:
The provision of office accommodation for the Defence portfolio is managed via a strategy that considers the current leasing program in addition to undertaking market appraisals for any growth. Though there may be some growth in the Defence ACT workforce over the next two years, there are no plans for a significant net increase in the ACT office requirement.

Defence: Staffing
(Question No. 80)

Senator Johnston asked the Minister representing the Minister for Defence, upon notice, on 28 September 2010:
As at 30 June 2010: (a) how many uniformed staff were there in each of the three service areas (i.e. army, navy, air force); and (b) how many civilian staff were there in each of the service areas.

Senator Chris Evans—The Minister for Defence has provided the following answer to the honourable senator’s question:
(1) The number of uniformed and civilian staff in each of the three Services as at 30 June 2010 was as follows:
(a) The numbers of uniformed members within each Service were as follows. These figures include GapYear members and those Reserve members serving full-time.
   (i) Navy: 14364;
   (ii) Army: 30257; and
   (iii) Air Force: 14884.
(b) The civilian numbers in each Service group were:
   (i) Navy: 887;
   (ii) Army: 1101; and
   (iii) Air Force: 912.

Defence: Staffing
(Question No. 81)

Senator Johnston asked the Minister representing the Minister for Defence, upon notice, on 28 September 2010:
How many uniformed personnel were recruited to each of the service areas? (i.e. army, navy and air force)

Senator Chris Evans—The Minister for Defence has provided the following answer to the honourable senator’s question:

(1) The numbers of personnel recruited into the Regular forces over the financial year ending 30 June 2010 were as follows. These figures are inclusive of Gap Year members and those who have had prior service in the military.
   (a) Navy: 2061;
   (b) Army: 4063; and
   (c) Air Force: 1285.

Defence: Staffing
(Question No. 82)

Senator Johnston asked the Minister representing the Minister for Defence, upon notice, on 28 September 2010:

(1) For the period 1 January to 30 June 2010:
   (a) how many uniformed staff resigned from each of the service areas (i.e. army, navy and air force); and
   (b) how many civilian staff resigned from each of the service areas.

(2) For the period 1 January to 30 June 2010:
   (a) how many uniformed staff were made redundant or accepted severance packages in each of the service areas; and
   (b) how many civilian staff were made redundant or accepted severance packages in each of the service areas.

Senator Chris Evans—The Minister for Defence Science and Personnel has provided the following answer to the honourable senator’s question:

(1) For the period 1 January to 30 June 2010:
   (a) 478 Navy, 784 Army and 389 Air Force permanent uniformed personnel voluntarily separated from the Services. This includes personnel who left each of the Services through resignation, within 90 days of enlistment, as a transfer to another Service or completion of an employment contract.
   (b) 20, 33 and 29 APS resigned from Navy, Army and Air Force Groups respectively.

(2) For the period 1 January to 30 June 2010:
   (a) 9 Army and 4 Air Force permanent uniformed personnel were made redundant or accepted severance packages from the Services.
   (b) 2, 3 and 3 APS staff members were made redundant or accepted severance packages in Navy, Army and Air Force Groups respectively.

Defence: Staffing
(Question No. 83)

Senator Johnston asked the Minister representing the Minister for Defence, upon notice, on 28 September 2010:

For the period 1 January to 30 June 2010 how many temporary civilian positions were created in the department and in the Defence Materiel Organisation.
Senator Chris Evans—The Minister for Defence Science and Personnel has provided the following answer to the honourable senator’s question:
During the period 1 January to 30 June 2010, 39 temporary civilian positions were created in the department and 36 in the Defence Materiel Organisation. This is a total of 75 temporary civilian positions.

Defence: Staffing
(Question No. 84)

Senator Johnston asked the Minister representing the Minister for Defence, upon notice, on 28 September 2010:
For the period 1 January to 30 June 2010 how many temporary civilian positions existed in the department and in the Defence Materiel Organisation.

Senator Chris Evans—The Minister for Defence Science and Personnel has provided the following answer to the honourable senator’s question:
During the period 1 January to 30 June 2010, there was an average of 181 temporary civilian positions in the Department of Defence and 70 in the Defence Materiel Organisation. This is an overall average of 251 positions.

Defence: Staffing
(Question No. 85)

Senator Johnston asked the Minister representing the Minister for Defence, upon notice, on 28 September 2010:
For the period 1 January to 30 June 2010, how many civilian employees were employed on contract and at what levels of remuneration.

Senator Chris Evans—The Minister for Defence Science and Personnel has provided the following answer to the honourable senator’s question:
The following table indicates the number of civilian staff employed on contract during the period 1 January and 30 June 2010. The table also includes details of the level of remuneration of those staff:

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<td>17</td>
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QUESTIONS ON NOTICE
Senator Johnston asked the Minister representing the Minister for Defence, upon notice, on 28 September 2010:

For the period 1 July 2009 to 30 June 2010, what net savings have been made in the Strategic Reform Program (SRP) ‘Provisional Savings and Costs - Gross SRP Stream Savings’ for:
(a) information and communications technology;
(b) inventory;
(c) logistics;
(d) non-equipment procurement;
(e) Reserves;
(f) shared services; and
(g) workforce.

Senator Chris Evans—The Minister for Defence has provided the following answer to the honourable senator’s question:
(a) to (g) The Strategic Reform Program (SRP) savings achieved per reform stream in the 2009-10 financial year are still being finalised. The Department will publish the stream cost reductions achieved under SRP in the Defence Annual Report which is expected to be released in late 2010.

Senator Johnston asked the Minister representing the Minister for Defence, upon notice, on 28 September 2010:

For the period 1 July 2009 to 30 June 2010, what net savings have been made in the Strategic Reform Program (SRP) ‘Provisional Savings and Costs - SRP Stream Costs’ for:
(a) information and communications technology;
(b) inventory;
(c) smart maintenance;
(d) logistic;
(e) non-equipment procurement;
(f) preparedness and personnel and operating cost;
(g) Reserves;
(h) shared services;
(i) workforce; and
(j) Mortimer implementation.

Senator Chris Evans—The Minister for Defence has provided the following answer to the honourable senator’s question:
(a) to (j) The ‘SRP Stream Costs’ do not have net savings as they reflect the stream reform related costs rather than savings.

**Defence: Programs**
(Question No. 91)

**Senator Johnston** asked the Minister representing the Minister for Defence, upon notice, on 28 September 2010:

For the period 1 July 2009 to 30 June 2010, what net savings have been made in the Strategic Reform Program (SRP) ‘Provisional Savings and Costs - SRP Stream Net Savings’ for:

(a) information and communications technology;
(b) inventory;
(c) smart maintenance;
(d) logistic;
(e) non-equipment procurement;
(f) preparedness and personnel and operating cost;
(g) Reserves;
(h) shared services; and
(i) workforce.

**Senator Chris Evans**—The Minister for Defence has provided the following answer to the honourable senator’s question:

(a) to (i) The Strategic Reform Program (SRP) savings achieved per reform stream in the 2009-10 financial year are still being finalised. The Department will publish the stream cost reductions achieved under SRP in the Defence Annual Report which is expected to be released in late 2010.

**Defence: Programs**
(Question No. 92)

**Senator Johnston** asked the Minister representing the Minister for Defence, upon notice, on 28 September 2010:

For the period 1 July 2009 to 30 June 2010, what net savings have been made in the Strategic Reform Program ‘Other Savings’ for the following areas:

(a) zero based budgeting review;
(b) minor capital program;
(c) facilities program;
(d) administrative; and
(e) productivity.

**Senator Chris Evans**—The Minister for Defence has provided the following answer to the honourable senator’s question:

(a) to (e) The Strategic Reform Program (SRP) savings achieved per reform stream in the 2009-10 financial year are still being finalised. The Department will publish the stream cost reductions achieved under SRP in the Defence Annual Report which is expected to be released in late 2010.
Defence Capability Plan
(Question No. 110)

Senator Johnston asked the Minister representing the Minister for Defence upon notice, on 28 September 2010:
Given that video communications are integrated into robots, soldiers and unmanned aerial vehicles, network-centric warfare is becoming the organising principle of war fighting, and frontline demands for bandwidth are rising at a rapid rate, for the period 1 January to 30 Jun 2010, what did the Australian Defence Force do and how much did it spend on:
(a) establishing a network centric-warfare capability; and
(b) addressing the issue of increased bandwidth.

Senator Chris Evans—The Minister for Defence has provided the following answer to the honourable senator’s question:
(a) The Australian Defence Force’s Network Centric Warfare capability is being delivered primarily through the Defence Capability Plan. Defence was engaged in the following network centric warfare activities from 1 January to 30 June 2010:
(ii) Over the period there have been a number of developments supporting network centric warfare milestones in the Network Centric Warfare Roadmap 2009:
   a. Defence has met initial operating capability of the Networked Maritime Task Units milestone through testing Link 16 on the FFG class through participation in the multi-national exercise RIMPAC 2010;
   b. Defence has continued to utilise increased wide band satellite communications bandwidth to support major fleet units;
   c. Defence has increased its utilisation of commercial bearers (e.g. Telstra Next G) for Minor War Vessels when operating in vicinity of Australian coastline;
   d. Defence has commenced delivery of the Vigilare Air Defence system and the Wedgetail Airborne Early Warning and Control aircraft. The ability of Air Force to maximise these capabilities will be realised through the delivery of improved communications capabilities with future satellite communications and Battlespace communications technologies;
   e. Defence has entered into contract with Elbit Systems for the provision of a mounted Battle Management System - Command and Control under Project Land 75 Phase 3.4 and a dismounted Battle Management System - Command and Control under Project Land 125 Phase 3A.;
   f. Defence has established a contract with Harris Corporation for the provision of radios to support Project Land 75 Phase 3.4, Project Land 125 Phase 3A and Project Land 17 Phase 1B. This contract will provide land forces with advanced command and control systems that will deliver situational awareness, digital messaging and enhanced tactical logistic and intelligence management. This capability will enable the digitisation of the Army’s 7th Brigade in Brisbane; and
   g. Defence signed an Ultra High Frequency Memorandum of Understanding with the United States of America in March 2010 to share satellite capacity. As a result, Australia will share its Ultra High Frequency capacity over the Indian Ocean Region with the United States. This will
benefit Australian and United States operations in Afghanistan. In return, the United States will share its Ultra High Frequency capacity in the Pacific Ocean Region.

(iii) A networked Australian Defence Force capability also requires the preparation of personnel to operate in a networked battlespace. This is being progressed through changes to doctrine, organisation, training and education with an emphasis on ‘learn by doing’. As part of this process the Services’ New Generation Navy, the Adaptive Army and the Air Force Adaptive Culture programs continue to prepare personnel to operate in a networked battlespace. Additionally, there have been improvements in the Defence Learning Environment and the Defence People Strategy (People in Defence) was released in December 2009.

(iv) The Rapid Prototyping, Development and Evaluation organisation, under Capability Development Group, has facilitated 10 Defence and industry activities to increase networked capability. $8.646 million has been directly attributed to developing and implementing network centric warfare through the Rapid Prototyping, Development and Evaluation organisation and the Network Centric Warfare Development Directorate in Capability Development Group. Expenditure on projects within the Defence Capability Plan is not included in the summation of expenditure attributed to the establishment of a networked Australian Defence Force capability.

(b) The requirement to meet frontline demands for increased bandwidth is being addressed through various projects to acquire satellite capabilities and enhanced tactical networks, including data link communications for Australian Defence Force elements and weapon systems. On the specific matter of increasing satellite bandwidth, Defence was engaged in the following activities from 1 January to 30 June 2010:

(i) Defence successfully certified the interim ground station west capability on the Australian west coast to provide access to the Wideband Global SATCOM system.

(ii) Defence continued milestone payments for the sixth Wideband Global SATCOM satellite.

(iii) Defence continues the development of a long term ground station capability on the Australian west coast.

(iv) Defence completed the wideband SATCOM terminals in Major Fleet Units in 2009 and has continued to develop the ashore support infrastructure and land based variants.

(v) Defence continued the acquisition of an Ultra High Frequency payload on an IS-22 commercial satellite over the Indian Ocean Region, which will become operational in 2012.

(vi) Defence has signed a Memorandum of Understanding which allows for the sharing of Ultra High Frequency SATCOM capacity with the United States.

(vii) Defence updated its leasing costs with INMARSAT in Feb 2010 with an annual increase in costs of $0.14 million.

(viii) The total cost of increasing satellite bandwidth within the period was $107.5 million.

(ix) Consumer Price Index increases in ongoing Defence spectrum license costs plus new apparatus spectrum licenses amount to an increase of $0.22 million.

Defence: Media Monitoring

(Question Nos 111 to 113)

Senator Johnston asked the Minister representing the Minister for Defence, upon notice, on 28 September 2010:

(1) For the period 1 January to 30 June 2010, for each agency within the responsibility of the Minister/Parliamentary Secretary, how much was spent on media monitoring.

(2) As at 1 July 2009 and 30 June 2010:
(a) how many staff were employed in public relations and/or the media in the department or each agency within the responsibility of the Minister/Parliamentary Secretary;

(b) what were the position levels of these staff; and

(c) how many of these staff were:
   (i) permanent,
   (ii) temporary, or
   (iii) contractors.

Senator Chris Evans—The Minister for Defence has provided the following answer to the honourable senator’s question:

(1) Department of Defence $196,306.39 (GST inclusive), Defence Housing Australia $15,024.22 (GST exclusive).

(2) (a), (b) and (c) At 1 July 2009 the Defence Public Affairs Branch employed 71 civilians, four contractors and 53 military employees. Outside of the Public Affairs Branch there were a further 27 civilians and 11 military employees providing public affairs support. This totals 98 civilians, four contractors and 64 military employees.

At 30 June 2010 the Defence Public Affairs Branch employed 65 civilians, four contractors and 50 military employees. Outside of the Public Affairs Branch there were a further 35 civilians and 11 military employees providing public affairs support. This totals 100 civilians, four contractors and 61 military employees.

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<th>Staffing as at 30 June 2010</th>
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<td>Defence Service Newspapers</td>
<td>1 x permanent WO2, 1 x permanent SGT, 3 x permanent CPL, 1 x permanent LS, 1 x permanent APS6, 2 x temporary APS6, 1 x permanent APS4-5, 1 x permanent/part-time APS4</td>
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<td>Military Public Affairs, Preparedness, Plans and Training</td>
<td>1 x permanent LTCOL, 1 x permanent MAJ, 1 x permanent CAPT, 1 x permanent APS6</td>
<td>1 x permanent MAJ, 1 x permanent CAPT, 1 x permanent APS6</td>
</tr>
<tr>
<td>Research, Policy and Entertainment Media Liaison</td>
<td>1 x permanent EL2, 1 x permanent APS6</td>
<td>1 x permanent EL2, 1 x permanent EL1, 1 x permanent APS6</td>
</tr>
<tr>
<td>Regional Public Affairs</td>
<td>7 x permanent EL1, 1 x temporary EL1, 1 x permanent APS6, 3 x permanent APS2</td>
<td>5 x permanent EL1, 1 x permanent/part-time EL1, 1 x temporary EL1, 2 x temporary/part-time EL1 (1=job share), 2 x permanent APS2</td>
</tr>
<tr>
<td>Military Headquarters Support</td>
<td>1 x permanent LTCOL, 6 x permanent MAJ, 1 x permanent SQNLDR, 3 x permanent CAPT, 1 x permanent LEUT</td>
<td>1 x permanent LTCOL, 6 x permanent MAJ, 1 x permanent SQNLDR, 3 x permanent CAPT, 1 x permanent LEUT</td>
</tr>
<tr>
<td>Joint Public Affairs Unit covering photographers and reporters</td>
<td>1 x permanent MAJ, 5 x permanent CAPT, 2 x permanent LEUT, 2 x permanent FLTLT, 3 x permanent WO2, 5 x permanent SGT, 1 x permanent PO, 6 x permanent CPL, 1 x permanent LS, 1 x permanent AB, 1 x permanent AC, 1 x permanent APS4</td>
<td>1 x permanent MAJ, 5 x permanent CAPT, 2 x permanent LEUT, 2 x permanent FLTLT, 3 x permanent WO2, 5 x permanent SGT, 1 x permanent PO, 6 x permanent CPL, 1 x permanent LS, 1 x permanent AB, 1 x permanent AC, 1 x permanent APS4</td>
</tr>
<tr>
<td>Administration Support</td>
<td>1 x permanent APS6, 1 x permanent APS5, 2 x permanent APS4</td>
<td>1 x permanent APS6, 1 x temporary permanent APS4, 1 x permanent APS4</td>
</tr>
<tr>
<td>Extended leave/Maternity leave/Temp transfer to another Group</td>
<td>1 x permanent EL2, 4 x permanent EL1, 1 x permanent APS6</td>
<td>1 x permanent EL1, 2 x permanent APS6, 1 x permanent APS4-5, 2 x permanent APS4</td>
</tr>
</tbody>
</table>


Outside of the Public Affairs Branch at 1 July 2009 there were a further 38 Defence employees who provided public affairs support as a part of their duties, on 30 June 2010 this figure was 46.
<table>
<thead>
<tr>
<th>Service/Group</th>
<th>Staffing as at 1 July 2009</th>
<th>Staffing as at 30 June 2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vice Chief of the Defence Force</td>
<td>3 x permanent EL1, 2 x permanent APS6</td>
<td>6 x permanent EL1, 2 x permanent APS6</td>
</tr>
<tr>
<td>Army</td>
<td>1 x temporary EL1, 1 x permanent APS6</td>
<td>2 x permanent APS6, 1 x permanent Major</td>
</tr>
<tr>
<td>Navy</td>
<td>2 x permanent CMDR, 1 x permanent LCDR, 4 x permanent LEUT, 2 x permanent EL1, 1 x permanent APS6</td>
<td>1 x permanent CMDR, 1 x permanent LCDR, 1 x part-time LCDR, 4 x permanent LEUT, 3 x permanent EL1, 1 x permanent APS6</td>
</tr>
<tr>
<td>Air Force</td>
<td>1 x permanent WGCDDR, 1 x permanent SQNLDR, 2 x permanent EL1, 1 x permanent APS6, 1 x temporary FLTTLT, 1 x temporary FLTTLT</td>
<td>1 x permanent SQNLDR, 2 x permanent APS6, 2 x permanent FLTTLT, 1 x permanent EL1</td>
</tr>
<tr>
<td>People Strategies and Policy Group</td>
<td>1 x permanent EL1, 1 x permanent APS6</td>
<td>1 x permanent EL1, 1 x permanent APS6</td>
</tr>
<tr>
<td>Chief Information Office</td>
<td>1 x permanent EL2</td>
<td>Nil</td>
</tr>
<tr>
<td>Service/Group</td>
<td>Staffing as at 1 July 2009</td>
<td>Staffing as at 30 June 2010</td>
</tr>
<tr>
<td>Intelligence and Security</td>
<td>1 x permanent EL1</td>
<td>1 x permanent EL1, 1 x permanent APS6, 1 x permanent/part time EL1, 1 x permanent APS6, 1 x permanent/part time APS6</td>
</tr>
<tr>
<td>Defence Science and Technology Organisation</td>
<td>1 x EL2, 4 x permanent EL1, 3 x permanent APS6</td>
<td>1 x EL2, 4 x permanent EL1, 3 x permanent APS6</td>
</tr>
<tr>
<td>Defence Materiel Organisation</td>
<td>1 x permanent EL1, 1 x permanent APS6</td>
<td>1 x permanent EL1</td>
</tr>
<tr>
<td>Defence Support Group</td>
<td>Nil</td>
<td>1 x permanent EL1</td>
</tr>
</tbody>
</table>

Key: CMDR: Commander, LCDR: Lieutenant Commander, LEUT: Lieutenant (Navy), WGCDDR: Wing Commander, SQNLDR: Squadron Leader, FLTTLT: Flight Lieutenant, FLTTLT: Flying Officer.

At 1 July 2009 and 30 June 2010 Defence Housing Australia (DHA) had no specific staff members responsible for the stated functions. DHA has a Marketing Communication Team, comprised of four staff members. The team is responsible for marketing communication and media campaigns to provide product and service information. There is relatively little day to day media interest in DHA’s activities, so an incidental proportion of the team’s time is involved in responding to media requests.

**Defence: Overseas Travel**

(Question Nos 120 to 122)

**Senator Johnston** asked the Minister representing the Minister for Defence, upon notice, on 28 September 2010:

1. (a) Did the Minister/Parliamentary Secretary travel overseas on official business; if so: (i) to what destination, (ii) for what duration, and (iii) for what purpose; and (b) what was the total cost of: (i) travel, (ii) accommodation, and (iii) any other expenses.

2. (a) Which departmental and uniformed personnel accompanied the Minister/Parliamentary Secretary on each trip; and (b) for those personnel, what was the total cost of: (i) travel, (ii) accommodation, and (iii) any other expenses.

3. (a) Apart from ministerial staff and uniformed and civilian departmental personnel, who else accompanied the Minister/Parliamentary Secretary on each trip; and (b) for each of these people, what was the total cost of: (i) travel, (ii) accommodation, and (iii) any other expenses.
Senator Chris Evans—The Minister for Defence has provided the following answer to the honourable senator’s question:

(1) (a) (i) to (iii) Yes, Ministers Smith, Faulkner, Griffin and Parliamentary Secretary Dr Kelly, travelled overseas on official business. Ministers Combet, Snowdon, Clare and Parliamentary Secretary Senator Feeney did not travel during this period. Details are provided in the attached table.

(b) (i) to (ii) All costs of official overseas travel by Ministers, Parliamentary Secretaries and advisers are paid for by the Department of Finance and Deregulation (Finance). Dates, destinations, the purpose and costs of all official overseas travel are tabled in the Parliament every six months in a report titled Parliamentarians’ Travel paid by the Department of Finance and Deregulation and its supporting information. These reports are now also published to the Finance web site. Finance has advised that expenditure for the most recent trip by Minister Smith to Afghanistan has not yet been reconciled and will be available on their website in due course, however, all other costs have been made available by Finance.

Where Ministers undertook travel via special purpose aircraft (SPA) the Schedule of Special Purpose flights for 1 January to 30 June 2010 will be tabled in December 2010.

(b) (iii) Some Ministerial expenses are a direct portfolio cost to Defence and where reconciled those costs are included under the Costs column of the attached table (part iii) with any ministerial incidentals.

(2) Please refer to the attached table.

(3) (i) to (iii) Costs for additional persons accompanying the Ministers and Parliamentary Secretaries are stated where known. Costs and details for ministerial advisers are reflected in the Costs column of the attached table (parts i-iii), as are details of non-Defence delegates or media that were invited to join the delegation. Spouses did not accompany the Ministers and Parliamentary Secretary on overseas travel during the period of 1 January to 29 September 2010.
<table>
<thead>
<tr>
<th>Minister / Parliamentary Secretary</th>
<th>(1) (a) Travel undertaken (i) (ii) (iii) Destination, duration and purpose</th>
<th>(b) Ministerial costs (i) Travel (ii) Accommodation (iii) Other</th>
<th>2(a) Defence delegation (i) $12,935.93 (ii) $2,304.85 (iii) $5,118.89</th>
<th>(b) Defence personnel costs (i) Travel (ii) Accommodation (iii) Other</th>
<th>(3) (a) Advisers and others accompanying (i) $58,384.17 (ii) $8,303.36 (iii) $2,243.95</th>
<th>(b) Costs (i) Travel (ii) Accommodation (iii) Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minister for Defence, Senator Faulkner</td>
<td>Turkey from 3 to 9 February 2010. The Minister visited Istanbul to attend the Non-NATO ISAF Countries Ministerial Meeting in Turkey, attend the Regional Command (South) Meeting and hold bilateral meetings with Ministers in attendance. Following Istanbul, the Minister visited Gallipoli.</td>
<td>1. Dr Ian Watt, Secretary 2. ACM Angus Houston, Chief of Defence Force 3. Mr Peter Jennings, Deputy Secretary Strategy 4. Mr Andrew Chandler, Assistant Secretary Middle East Operations 5. LEUT Scott Carter, MINDEF Aide de Camp 6. FLTLT Naomi Gill, CDF Aide de Camp 7. SGT Daniel Reedman, Signaller ACM Houston and FLTLT Gill did not participate in the Gallipoli portion of the visit.</td>
<td></td>
<td>1. Dr Kathleen Harrison, Chief of Staff 2. Dr Sheridan Kearnan, Adviser</td>
<td>(i) $16,283.88 (ii) $2,095.70 (iii) $668.30</td>
<td></td>
</tr>
<tr>
<td>Minister / Parliamentary Secretary</td>
<td>(1) (a) Travel undertaken (i) (ii) (iii) Destination, duration and purpose</td>
<td>(b) Ministerial costs (i) Travel (ii) Accommodation (iii) Other</td>
<td>2(a) Defence delegation</td>
<td>(b) Defence personnel costs (i) Travel (ii) Accommodation (iii) Other</td>
<td>(3)(a) Advisers and others accompanying (i) Travel (ii) Accommodation (iii) Other</td>
<td>(b) Costs (i) Travel (ii) Accommodation (iii) Other</td>
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</tr>
<tr>
<td>Minister for Defence, Senator Faulkner</td>
<td>Afghanistan from 22 to 27 April 2010. The Minister visited Afghanistan for ANZAC Day and meet with Afghan government officials, senior military leadership and Australian troops.</td>
<td>(i) $14,832.00 (ii) $291.11 (iii) $196.18</td>
<td>1. Dr Ian Watt, Secretary 2. LTGEN David Hurley, Vice Chief of the Defence Force 3. LEUT Scott Carter, MINDEF Aide de Camp. 4. CAPT David Carew, VCDF Aide de Camp.</td>
<td>(i) $63,108.05 (ii) $899.26 (iii) $612.49</td>
<td>1. Mr Colin Campbell, Adviser 2. Mr George Thompson, Adviser 3. Two media representatives, Mr Greg Bearrup and Ms Kate Brooks accompanied Senator Faulkner. Costs are not known.</td>
<td>(i) $23,340.00 (ii) $445.24 (iii) $265.30</td>
</tr>
</tbody>
</table>
## QUESTIONS ON NOTICE

<table>
<thead>
<tr>
<th>Minister / Parliamentary Secretary</th>
<th>(1) (a) Travel undertaken (i) (ii) (iii) Destination, duration and purpose</th>
<th>(b) Ministerial costs (i) Travel (ii) Accommod. (iii) Other</th>
<th>2(a) Defence delegation</th>
<th>(b) Defence personnel costs (i) Travel (ii) Accommod. (iii) Other</th>
<th>(3)(a) Advisers and others accompanying (b) Costs (i) Travel (ii) Accommod. (iii) Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Senator Faulkner</td>
<td>United States from 11 to 15 April 2010 representing the Prime Minister. The Minister visited Washington to represent the Prime Minister at the Nuclear Security Summit and to meet with counterparts in Washington.</td>
<td>$19,846.00 (ii) $2271.00 (iii) $3,308.82</td>
<td></td>
<td>1. Mr Simeon Gilding, Acting Deputy Secretary Strategy (Operations). 2. LEUT Scott Carter, MINDEF Aide-de-Camp.</td>
<td>$23,194.01 (ii) $2,514.23 (iii) $794.77</td>
</tr>
<tr>
<td>Minister / Parliamentary Secretary</td>
<td>(1) (a) Travel undertaken (i) (ii) (iii) Destination, duration and purpose</td>
<td>(b) Ministerial costs (i) Travel (ii) Accommodation (iii) Other</td>
<td>2(a) Defence delegation costs</td>
<td>(b) Defence personnel costs (i) Travel (ii) Accommodation (iii) Other</td>
<td>(3)(a) Advisers and others accompanying</td>
</tr>
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</tr>
<tr>
<td>Minister for Defence, Senator Faulkner</td>
<td>Japan from 18 to 21 May 2010. The Minister visited Japan to attend the Japan-Australia Joint Foreign and Defence Ministerial Consultations.</td>
<td>(i) $7,398.50 (ii) $1,019.04 (iii) $3,133.13</td>
<td>1. Dr Ian Watt, Secretary</td>
<td>(i) $22,812.06 (ii) $1,153.31 (iii) $1053.63</td>
<td>1. Mr George Thompson, Adviser</td>
</tr>
<tr>
<td>Minster / Parliamentary Secretary</td>
<td>(1) (a) Travel undertaken</td>
<td>(b) Ministerial Costs</td>
<td>2(a) Defence delegation</td>
<td>(b) Defence personnel costs</td>
<td>(3)(a) Advisers and others accompanying</td>
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</tr>
<tr>
<td></td>
<td>(i) (ii) (iii) Destination, duration and purpose</td>
<td>(i) Travel</td>
<td>(ii) Accom.</td>
<td>(iii) Other</td>
<td>(i) Travel</td>
</tr>
<tr>
<td>Minster for Defence, Senator Faulkner</td>
<td>Singapore, Pakistan, UAE and Belgium from 4 to 13 June 2010. The Minister visited Singapore to attend the 9th International Institute for Strategic Studies Asia Security Summit, the Shangri-la Dialogue, and participate in bilateral meetings with counterparts. The Minister visited Pakistan to meet his counterpart and to visit the HMAS Parramatta in Karachi. The flight from Singapore – Pakistan – United Arab Emirates was via Special Purpose Aircraft in accordance with advice from the National Security Adviser and CDF.</td>
<td>(i) $14,027.22 and Special Purpose Aircraft</td>
<td>Full visit 1. Dr Ian Watt 2. ACM Angus Houston 3. Scott Carter 4. FLTTLT Naomi Gill Singapore only Col Vance Khan, CDF CoS Mr Andrew Nikolic, First Assistant Secretary Regional Engagement Mr Garbis Avakian, Note taker Mr Chris Kevork, Support Policy Officer Mr Kim Moy, Notetaker SGT Daniel Reedman, Signaller Brussels Mr Simeon Gilding, Acting Deputy Secretary Strategy (Operations) – met with the party in the United Arab Emirates.</td>
<td>(i) $94,033.16 and Special Purpose Aircraft</td>
<td>(i) $30,839.50 (ii) $15,516.94</td>
</tr>
<tr>
<td>Minister / Parliamentary Secretary</td>
<td>(1) (a) Travel undertaken (i) (ii) (iii) Destination, duration and purpose</td>
<td>(b) Ministerial costs (i) Travel (ii) Accommodation (iii) Other</td>
<td>2(a) Defence delegation</td>
<td>(b) Defence personnel costs (i) Travel (ii) Accommodation (iii) Other</td>
<td>(3)(a) Advisers and others accompanying</td>
</tr>
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</tr>
</tbody>
</table>

The Minister visited United Arab Emirates enroute to Belgium to attend the ramp ceremony of two soldiers at Al Minhad Air Base in Dubai.

The Minister visited Belgium to attend the Non-NATO ISAF Countries Ministerial Meeting in Brussels; attend the Regional Command (South) Meeting and hold bilateral meetings with Ministers in attendance.
**QUESTIONS ON NOTICE**

<table>
<thead>
<tr>
<th>Minister / Parliamentary Secretary</th>
<th>(1) (a) Travel undertaken (i) (ii) (iii) Destination, duration and purpose</th>
<th>(b) Ministerial costs (i) Travel (ii) Accom. (iii) Other</th>
<th>2(a) Defence delegation</th>
<th>(b) Defence personnel costs (i) Travel (ii) Accom (iii) Other</th>
<th>(3) (a) Advisers and others accompanying (i) (ii) (iii) Other</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Minister for Defence, Mr Smith</strong></td>
<td>Afghanistan from 22 to 25 September 2010. The Minister visited Afghanistan for introductory calls on his counterpart, to meet officials in Kabul and to visit troops. The Minister was accompanied by two advisers, Ms Frances Adamson, Chief of Staff and Ms Michaela Browning, Adviser, and five defence personnel to Afghanistan.</td>
<td>(i) $ Not yet reconciled by DOFR (ii) $ Not yet reconciled by DOFR (iii) $ Not yet reconciled by DOFR</td>
<td>1. Dr Ian Watt, Secretary 2. ACM Angus Houston, Chief of Defence Force. 3. LEUT Scott Carter, MINDEF Aide de Camp. 4. MAJGEN Richard Wilson, Director Defence Intelligence Organisation. 5. COL Vance Khan, CDF CoS</td>
<td>(i) $60,703.08 (ii) $2,531.28 (iii) $1,424.67</td>
<td>1. Ms Frances Adamson, Chief of Staff. 2. Ms Michaela Browning, Adviser. Four media representatives: Mr Brendan Nicholson, Mr Nick Butterly, Mr David Speers and Ms Sally Sara accompanied Mr Smith on this visit.</td>
</tr>
</tbody>
</table>
### Questions on Notice

<table>
<thead>
<tr>
<th>Minister / Parliamentary Secretary</th>
<th>(1) (a) Travel undertaken</th>
<th>(b) Ministerial costs</th>
<th>2(a) Defence delegation</th>
<th>(b) Defence personnel costs</th>
<th>(3)(a) Advisers and others accompanying</th>
<th>(b) Costs</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>(i) (ii) (iii) Destination, duration and purpose</td>
<td>(i) Travel</td>
<td>(i) Travel</td>
<td>(i) SPA</td>
<td>(i) $ N/A</td>
<td>(i) SPA</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(ii) Accommodation</td>
<td>(ii) Accommodation</td>
<td>(ii) $Nil</td>
<td>(ii) $ N/A</td>
<td>(ii) Nil</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(iii) Other</td>
<td>(iii) Other</td>
<td>(iii) $126.00</td>
<td>(iii) $ N/A</td>
<td>(iii) $51.91</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Minister for Veterans' Affairs and Defence Support, Mr Griffin</th>
<th>Indonesia from 11 to 12 April 2010. The Minister visited Indonesia for the repatriation ceremony for Private Moncrieff and Lieutenant Hudson. Relatives from both families accompanied the Minister. The Minister was accompanied by one adviser. Travel was via Special Purpose Aircraft (SPA)</th>
<th>N/A</th>
<th>(i) $ N/A</th>
<th>1. Darren Loasby, Chief of Staff.</th>
<th>(i) SPA</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(ii) $ N/A</td>
<td></td>
<td>(ii) $ N/A</td>
<td>2. Relatives of both families (Moncrieff and Hudson) accompanied the Minister. Costs are not known.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(iii) $126.00</td>
<td></td>
<td>(iii) $ N/A</td>
<td>(iii) $51.91</td>
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</table>
**QUESTIONS ON NOTICE**

<table>
<thead>
<tr>
<th>Minister / Parliamentary Secretary</th>
<th>(1) (a) Travel undertaken</th>
<th>(b) Ministerial costs</th>
<th>2(a) Defence delegation</th>
<th>(b) Defence personnel costs</th>
<th>(3)(a) Advisers and others accompanying</th>
<th>(b) Costs</th>
</tr>
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<tbody>
<tr>
<td>(i) (ii) (iii) Destination, duration and purpose</td>
<td>(i) Travel</td>
<td>(ii) Accommodation</td>
<td>(i) Travel</td>
<td>(ii) Accommodation</td>
<td>(i) Other</td>
<td>(ii) Accommodation</td>
</tr>
<tr>
<td>Minister for Veterans’ Affairs and Defence Support, Mr Griffin</td>
<td>France, the United Kingdom and Belgium, scheduled to depart on 17 June 2010, but the visit did not proceed to the election announcement. Non-refundable accommodation costs were incurred.</td>
<td>(i) $0</td>
<td>1. CAPT Emma Broder, Aide-de-Camp</td>
<td>(i) $0</td>
<td>1. Matthew McKeon, Adviser</td>
<td>(i) $0</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(ii) $1,366.64</td>
<td></td>
<td>(ii) $0</td>
<td>2. The Secretary of Veterans’ Affairs, Costs not known.</td>
<td>(ii) $723.51</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(iii) $532.14</td>
<td></td>
<td>(iii) $110.72</td>
<td>3. Officer from the War Graves Office were scheduled to travel, but did not. Costs not known.</td>
<td>(iii) $0</td>
</tr>
</tbody>
</table>
Parliamentary Secretary for Defence Support, Dr Mike Kelly

<table>
<thead>
<tr>
<th>Minister / Parliamentary Secretary</th>
<th>(1) (a) Travel undertaken</th>
<th>(b) Ministerial costs</th>
<th>(b) Defence delegation</th>
<th>(b) Defence personnel costs</th>
<th>(3)(a) Advisers and others accompanying</th>
<th>(b) Costs</th>
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<tr>
<td></td>
<td>(i) (ii) (iii) Destination, duration and purpose</td>
<td>(i) Travel</td>
<td>(ii) Accommodation</td>
<td>(i) Travel</td>
<td>(ii) Accommodation</td>
<td>(i) Travel</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(iii) Other</td>
<td></td>
<td>(iii) Other</td>
<td></td>
<td>(iii) Other</td>
</tr>
<tr>
<td>Ethiopia from 1 to 4 March 2010.</td>
<td>Dr Kelly visited Ethiopia to deliver the opening address at an International Symposium on the Protection of Civilians in Conflict Zones, supported by the Asia Pacific Civil-Military Centre of Excellence and the African Union’s Peace and Security Commission. Defence personnel were also in attendance at the conference in their capacity as organisers and/or attendees.</td>
<td>$10,262.60</td>
<td>N/A</td>
<td>$ N/A</td>
<td>$ N/A</td>
<td>$10,262.60</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$954.55</td>
<td>N/A</td>
<td>$ N/A</td>
<td>$ N/A</td>
<td>$954.55</td>
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<tr>
<td></td>
<td></td>
<td>$1016.99</td>
<td>N/A</td>
<td>$ N/A</td>
<td>$ N/A</td>
<td>$459.31</td>
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QUESTIONS ON NOTICE
Defence: Freedom of Information Requests
(Question Nos 123 to 125)

Senator Johnston asked the Minister representing the Minister for Defence, upon notice, on 28 September 2010:

For the period 1 January to 30 June 2010 and for each agency within the responsibility of the Minister/Parliamentary Secretary:
(1) How many freedom of information (FOI) requests were received.
(2) How many FOI requests were granted or denied.
(3) How many conclusive certificates were issued in relation to FOI requests.

Senator Chris Evans—The Minister for Defence has provided the following answer to the honourable senator’s question:

Defence
(1) During the period 1 January to 30 June 2010, Defence received 122 FOI requests, 114 were requested under Section 15 (access to documents) and 8 under Section 48 (amendment or annotation of personal records) of the FOI Act.

(2) 126 FOI requests were finalised between 1 January and 30 June 2010. The following table provides a breakdown of these requests:

Section 15 requests Completed

<table>
<thead>
<tr>
<th>Granted in full</th>
<th>Partial disclosure</th>
<th>Denied</th>
<th>Refused</th>
<th>Withdrawn</th>
<th>Transferred</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>36</td>
<td>43</td>
<td>0</td>
<td>11</td>
<td>28</td>
<td>1</td>
<td>119</td>
</tr>
</tbody>
</table>

Section 48 requests Completed

<table>
<thead>
<tr>
<th>Granted in full – alter record</th>
<th>Granted in part – alter record</th>
<th>Granted1 – annotate record</th>
<th>Refused</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>0</td>
<td>2</td>
<td>5</td>
<td>7</td>
</tr>
</tbody>
</table>

(3) None.

Defence Housing Australia

(1) During the period 1 January to 30 June 2010, Defence Housing Australia received no requests.

(2) None.

(3) None.

Notes

1 Where an exempt document is identified, access to the document can be denied, with reference to the relevant exemption provisions of the FOI Act.

2 Section 24A of the FOI Act provides for requests for access to documents to be refused if the documents cannot be found or do not exist. Access may also be refused if the work involved in processing the request would substantially and unreasonably divert resources of an agency. For the period in question, the 11 refusals related to documents that do not exist.

3 Section 51 of the FOI Act provides that where an agency refused to amend records under Section 48 then the agency must offer to annotate the record. 2 applicants accepted this offer.
Defence: Joint Strike Fighter
(Question No. 129)

Senator Johnston asked the Minister representing the Minister for Defence, upon notice, on 28 September 2010:

(1) With reference to the acquisition of the first 14 F-35 Joint Strike Fighter (JSF) aircraft: (a) what is the expected expenditure on the acquisition; (b) what is supplied as equipment, supporting systems, weapons, services or infrastructure to the Australian Defence Force (ADF); (c) when will these aircraft be delivered; (d) when will they become fully operational; and (e) what is the estimated through-life support and operating costs for these aircraft over an expected 30 year period of operation.

(2) When will the remaining 86 F-35 JSF be purchased (as referenced in the Defence White Paper 2009, p. 78, paragraph 9.60, ‘The Government has decided that it will acquire around 100 F-35 JSF, along with supporting systems and weapons. The first stage of this acquisition will acquire three operational squadrons comprising not fewer than 72 aircraft’).

(3) With reference to the acquisition of the remaining 58 to 86 F-35 JSF: (a) what is the expected expenditure on the acquisition; (b) what will be supplied as equipment, supporting systems, weapons, services or infrastructure to the ADF; (c) when will the aircraft be delivered; (d) when will they become fully operational; (e) where will the JSF squadrons be based, and when; and (f) what is the estimated through-life support and operating costs over an expected 30 year period of operation.

(4) Is it anticipated that the F-35 JSF will land at Darwin on a regular and continuing basis.

(5) Is there any intention of basing any F-35 JSF at Darwin in the next 15 years.

Senator Chris Evans—The Minister for Defence has provided the following answer to the honourable senator’s question:

(1) (a) The first 14 Joint Strike Fighters, with infrastructure and support required for initial training and testing, will be acquired at an estimated cost of $3.2 billion. However, it should be noted that this figure is in ‘Then Year’ dollars, i.e. it takes inflation into account, is based on a Australia/United States exchange rate of US$0.84, includes a considerable amount of contingency, and the proportion of the funds for aircraft is considerably less for this phase than for the overall project because of the higher proportion of broader project support elements for this first stage of the project.

(b) The first stage of acquisition comprises:
- 14 Conventional Take-Off and Landing aircraft, including significant provision for known and unknown cost risks;
- auxiliary mission equipment such as weapons adaptors;
- initial support equipment;
- weapons for operational testing;
- funding for initial training in the United States;
- initial contribution to global spares pool and initial deployment kit;
- initial flight and maintainer simulator capability to support operational testing;
- facilities and environmental planning activities;
- information technology integration;
- contribution to electronic warfare reprogramming facility;
- ferry of aircraft to Australia;
- ongoing contribution to the Joint Strike Fighter Program shared costs;
- operational test activities in Australia;
- ongoing industry support initiatives;
- ongoing Defence Science & Technology Organisation support activities; and
- administrative costs.

(c) On current plans:
Australia’s first two aircraft will be delivered in 2014 in the United States. Australia’s first 10 aircraft will be based in the United States for a number of years for pilot and maintain training and operational testing. The next four aircraft will be delivered in Australia in 2017.

(d) The first aircraft to arrive in Australia in 2017 will have completed Block 3 developmental and operational test and evaluation activities and will therefore be fully capable of meeting endorsed Australian New Air Combat Capability requirements. Australian-specific operational testing – primarily to ensure effective integration with other Australian Defence Force air and ground systems – will take place during 2017 and 2018, leading to Initial Operational Capability in 2018.

On current plans, subsequent aircraft deliveries (leading to a total of no fewer than 72 aircraft) will lead to Full Operational Capability of the first three operational squadrons being achieved by 2021.

(e) In broad terms the operational cost of each aircraft as a component of a mature fleet of three squadrons would be in the order of $200-250 million (using a reasonably conservative exchange rate) over a 30 year life at the currently expected rate of effort or about $2.8-3.5 billion for the 14 aircraft currently approved.

(2) A decision on acquiring the next batch of aircraft and all necessary support and enabling capabilities – leading to a total of no fewer than 72 to form the first three operational squadrons and a training squadron – is planned for 2012.

A decision on acquiring the fourth operational squadron to bring the total number of Joint Strike Fighter aircraft to around 100, will be considered at a later date in conjunction with the Government’s decision on the timing of withdrawal of the 24 Super Hornets.

(3) (a) Full provisions for acquisition of the remaining approximate 86 aircraft are included in the Defence Capability Plan. The actual costs of the remaining aircraft and associated support and enabling systems for the first three operational squadrons and a training squadron will be finalised when Government considers this stage of acquisition in 2012.

The actual cost of a fourth squadron will be determined later, in conjunction with a decision on the replacement of the Super Hornet fleet.

(b) The acquisition breakdown is broadly similar to the first stage but comprises the full support capability:
- remaining (approx 86) Conventional Take-Off and Landing aircraft, including significant provision for known and unknown cost risks;
- additional auxiliary mission equipment such as weapons adaptors;
- additional support equipment;
- weapons for training;
- additional contribution to global spares pool and initial deployment kit;
- additional flight and maintainer simulator capability to support operational testing;
- facilities construction;
- information technology hardware;
- remainder of contribution to electronic warfare reprogramming facility;
- ferry of aircraft to Australia;
- ongoing contribution to the Joint Strike Fighter Program shared costs;
- ongoing operational test activities in Australia;
- ongoing industry support initiatives;
- ongoing Defence Science & Technology Organisation support activities; and
- administrative costs.

(c) On current plans, the bulk of the aircraft to form the first three operational squadrons and training squadron will be delivered over the period 2018 to 2021.

(d) Please see response to part 1(d) of the question.

Delivery of the fourth operational squadron – bringing the total number to around 100 – will be dependent on the withdrawal date of the Super Hornets.

Australia’s Joint Strike Fighters will initially be based at RAAF Base Williamtown and RAAF Base Tindal, and eventually RAAF Base Amberley, with the first squadron planned to be available for operations at RAAF Base Williamtown in 2018.

Operational costs for a total fleet of about 100 aircraft would be in the order of $20 billion over a 30 year life based on the currently expected rate of effort and assuming the economies of scale of an eventual all Joint Strike Fighter fleet. Proportionally the final 86 aircraft would cost in the order of $17 billion.

(4) The Joint Strike Fighter will transit through all operational Air Force bases in Australia, including RAAF Base Darwin, primarily to participate in military exercises.

(5) The Joint Strike Fighter will be based at RAAF Base Tindal, not Darwin, and will not be arriving at Tindal until around late 2018/early 2019.

Defence: Programs

(Question No. 133)

Senator Johnston asked the Minister representing the Minister for Defence, upon notice, on 28 September 2010:

With reference to the Strategic Reform Program: For the period 1 July 2009 to 30 June 2010:

(a) what provisional savings of the forecasted $529 million have been made;
(b) can a detailed explanation be provided of where these savings have been realised; and
(c) what one-off savings been made.

Senator Chris Evans—The Minister for Defence has provided the following answer to the honourable senator’s question:

(a) to (c) Strategic Reform Program (SRP) savings are tracked, reported and managed on a stream-by-stream basis, they are not broken up by sub-category of productivity, one-offs or other descriptors. The Strategic Reform Program (SRP) savings achieved per reform stream in the 2009-10 financial year are still being finalised. The Department will publish the stream cost reductions achieved under SRP in the Defence Annual Report which is expected to be released in late 2010.
Defence: Programs
(Question No. 134)

Senator Johnston asked the Minister representing the Minister for Defence, upon notice, on 28 September 2010:
For the period 1 July 2009 to 30 June 2010, what productivity improvement savings have been made by the department and by the Defence Materiel Organisation.

Senator Chris Evans—The Minister for Defence has provided the following answer to the honourable senator’s question:
Strategic Reform Program (SRP) savings are tracked, reported and managed on a stream-by-stream basis, they are not broken up by sub-category of productivity, one-offs or other descriptors. The SRP savings achieved per reform stream in the 2009-10 financial year are still being finalised. The Department will publish the stream cost reductions achieved under SRP in the Defence Annual Report which is expected to be released in late 2010.

Defence: Programs
(Question No. 136)

Senator Johnston asked the Minister representing the Minister for Defence, upon notice, on 28 September 2010:
For the period 1 July 2009 to 30 June 2010:
(a) what total productivity improvement savings of the forecasted $5.1 billion have been made in Smart Sustainment reform; and
(b) what one-off savings have been made.

Senator Chris Evans—The Minister for Defence has provided the following answer to the honourable senator’s question:
(a) and (b) Strategic Reform Program (SRP) savings are tracked, reported and managed on a stream-by-stream basis, they are not broken up by sub-category of productivity, one-offs or other descriptors. The SRP savings achieved in the Smart Sustainment stream in the 2009-10 financial year are still being finalised. The Department will publish the stream cost reductions achieved under SRP in the Defence Annual Report which is expected to be released in late 2010.

Defence: Programs
(Question No. 137)

Senator Johnston asked the Minister representing the Minister for Defence, upon notice, on 28 September 2010:
For the period 1 July 2009 to 30 June 2010:
(a) what savings of the expected $4.4 billion over the period 2009 to 2019 have been made in the implementation of smart maintenance techniques; and
(b) what one-off savings have been made.

Senator Chris Evans—The Minister for Defence has provided the following answer to the honourable senator’s question:
(a) and (b) Strategic Reform Program (SRP) savings are tracked, reported and managed on a stream-by-stream basis, they are not broken up by sub-category of implementation of smart maintenance techniques, one-offs or other descriptors. The SRP savings achieved in the Smart Sustainment stream in the 2009-10 financial year are still being finalised. The Department will publish the
stream cost reductions achieved under SRP in the Defence Annual Report which is expected to be released in late 2010.

Defence: Programs
(Question No. 138)

Senator Johnston asked the Minister representing the Minister for Defence, upon notice, on 28 September 2010:
For the period 1 July 2009 to 30 June 2010:
(a) what savings of the expected $700 million over the period 2009 to 2019 have been made in the optimising of inventory holdings and the introducing of more efficient management techniques; and
(b) what one-off savings have been made.

Senator Chris Evans—The Minister for Defence has provided the following answer to the honourable senator’s question:
(a) and (b) Strategic Reform Program (SRP) savings are tracked, reported and managed on a stream-by-stream basis, they are not broken up by sub-category of optimising inventory holdings, introducing more efficient management techniques, one-offs or other descriptors. The SRP savings achieved per reform stream in the 2009-10 financial year are still being finalised. The Department will publish the stream cost reductions achieved under SRP in the Defence Annual Report which is expected to be released in late 2010.

Defence: Programs
(Question No. 139)

Senator Johnston asked the Minister representing the Minister for Defence, upon notice, on 28 September 2010:
For the period 1 July 2009 to 30 June 2010:
(a) what savings of the expected $320 million over the period 2009 to 2019 have been made in Storage and Distribution (Logistics) Reform with the adoption of automated technologies and improved business practices; and
(b) what one-off savings have been made.

Senator Chris Evans—The Minister for Defence has provided the following answer to the honourable senator’s question:
(a) and (b) Strategic Reform Program (SRP) savings are tracked, reported and managed on a stream-by-stream basis, they are not broken up by sub-category of the adoption of automated technologies, improved business practice, one-offs or other descriptors. The SRP savings achieved in the Logistics stream in the 2009-10 financial year are still being finalised. The Department will publish the stream cost reductions achieved under SRP in the Defence Annual Report which is expected to be released in late 2010.

Defence: Programs
(Question Nos 141 to 143)

Senator Johnston asked the Minister representing the Minister for Defence, upon notice, on 28 September 2010:
For the period 1 July 2009 to 30 June 2010: (a) what ‘First Pass’ Project approvals have been made; and (b) what ‘Second Pass’ Project approvals have been made.
Senator Chris Evans—The Minister for Defence has provided the following answer to the honourable senator’s question:

(a) In the period 1 July 2009 to 30 June 2010 six projects received First Pass approval. This included:
   (i) AIR 5416 Phase 4B.2 C-130J Large Aircraft Infrared Countermeasures
   (ii) AIR 5428 Phase 1 Pilot Training System
   (iii) AIR 9000 Phase 8 Naval Combat Helicopter Capability
   (iv) Joint Project 2090 Phase 1C Combined Information Environment
   (v) 2 Classified Projects

(b) In the period 1 July 2009 to 30 June 2010 thirteen projects received Second Pass Approval. This included:
   (i) AIR 5416 Phase 4B.1 C-130J Radar Warning Receiver
   (ii) AIR 5440 Phase 1 C-130J Block Upgrade Program 7
   (iii) AIR 6000 Phase 2A/2B New Air Combat Capability (Tranche 1)
   (iv) AIR 9000 Phase 5C Additional Heavy Lift Helicopters
   (v) Joint Project 2008 Phase 5A Military Satellite Capability
   (vi) Joint Project 2089 Ph 2B Tactical Information Exchange Domain
   (vii) Joint Project 2110 Phase 1A Chemical, Biological, Radiological, Nuclear Defence
   (viii) LAND 17 Phase 1A Artillery Replacement
   (ix) LAND 19 Phase 7A Counter Rocket Artillery and Mortar
   (x) LAND 75 Phase 3.4 Battlefield Command Support System 3.4
   (xi) LAND 112 Phase 4 Australian Light Armoured Vehicle Enhancement
   (xii) AND 125 Phase 3A Soldier Enhancement Version 2
   (xiii) SEA1397 Phase 5A Nulka Missile Decoy Enhancements

Defence: Reserves
(Question No. 144)

Senator Johnston asked the Minister representing the Minister for Defence, upon notice, on 28 September 2010:

For the period 1 January to 30 June 2010:

1. (a) How many training days have been allocated to Reserves in each state and territory; and (b) what is the budget allocation to provide these training days.
2. (a) How many training days were actually used by Reserves in each state and territory; and (b) what was the actual expenditure to provide these training days.

Senator Chris Evans—The Minister for Defence Science and Personnel has provided the following answer to the honourable senator’s question:

1. (a) Training days have been allocated to Reserves in each state and territory as follows:

   Navy,
   ACT – 27,082.
   NSW – 38,179.
   NT – 2494.
   QLD – 11,215.

QUESTIONS ON NOTICE
Army. Army is unable to produce an accurate figure as it does not allocate training days, it only allocates an annual budget and is unable to accurately forecast the number of training days until those days are consumed. It is the responsibility of Commands within Army to assign Reserve salary funding to groups and units for Reservist training.

**Air Force.**

ACT – 7482.
NSW – 20,922.
NT – 1909.
QLD – 19,467.
SA – 9547.
TAS – 1008.
VIC – 9312.
WA – 5566.

(b) The budget allocation to provide the training days detailed above are as follows:

**Navy.**

ACT – $7,485,100.
NSW – $9,427,577.
NT – $531,678.
QLD – $2,419,481.
SA – $926,966.
TAS – $1,030,016.
VIC – $1,345,429.
WA – $2,611,288.
Overseas – $10,580.

**Army.** Approximately $61,000,000 for the period 1 January to 30 June 2010 based on 50 per cent of the total Reserve salary budget.

**Air Force.**

ACT - $2,354,472.
NSW - $4,984,931.
NT - $375,482.
QLD - $4,313,586.
SA - $1,985,161.
TAS - $215,460.
VIC - $2,156,051.
WA - $1,195,847.
(2) (a) The amount of training days that were actually used by Reserves in each state and territory are as follows:

**Navy.**

Navy allocates training days to individual Funded Reserve Commitment (FRC) positions. These FRC positions are allocated to establishments, units and departments across Navy and non-Navy components. These days can be used anytime during the training (financial) year, and are not allocated on a half yearly basis. Navy can supply training day and budget allocation by state, but only actual training day and budget expenditure on a national basis. A total of 60,415 training days have been used across Navy between 01 January and 30 June 2010.

**Army.**

Approximately 371,786 days. Given that many units are spread across state borders, determining a breakdown of training days for each state is difficult. An approximation based on a pro-rata calculation of the number of Reserve personnel active in each state as at 30 June 2010 is as follows:

- NSW – 104,850.
- QLD – 91,702.
- TAS – 14,376.
- VIC – 62,995.
- WA – 40,069.

**Air Force.**

Approximately 74,330 days as follows:

- ACT - 7481.
- NSW – 20,371.
- NT - 1859.
- QLD – 18,954.
- SA - 9297.
- TAS - 982.
- VIC - 9067.
- WA - 5419.

(b) The actual expenditure to provide the training days detailed above are as follows:

**Navy.**

A total of $13,164,024 has been expended across Navy between 01 January and 30 June 2010 on Reserve salaries.

**Army.**

The table below is the approximate expenditure of Army funding on Reserve salaries by State for the period 1 January to 30 June 2010. Due to the way in which Army allocates funding for Reserve salaries to formations to manage, it is not possible to determine the exact figure for each State without interrogating the exact number of days paraded by each individual within their specific State. The table below is based on a pro-rata apportionment of the expenditure of Reserve salary.
for the period in question based on the number of Reserve personnel active in each State as at 30 June 2010.

**Air Force.**
- ACT - $2,292,512.
- NSW - $4,857,749.
- NT - $365,601.
- QLD - $4,200,070.
- SA - $1,932,920.
- TAS - $209,790.
- VIC - $2,099,313.
- WA - $1,164,377.

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**Defence Land**

(Question No. 150)

**Senator Siewert** asked the Minister representing the Minister for Defence, upon notice, on 28 September 2010:

With reference to the land bounded by Vale Road, Adelaide Street and Abernethy Road in Hazelmere, Western Australia, is the Minister aware of any plans to develop this land; if so:

(a) who has made the applications; and

(b) what is the nature of the applications.

**Senator Chris Evans**—The Minister for Defence has provided the following answer to the honourable senator’s question:

(a) and (b) I am not aware of any former Defence land that matches the street description outlined in the Senator’s question.

The Senator may be referring to the sale of part of the former Bushmead Rifle Range which is located at the corner of Midland Road and Sadler Drive Hazelmere. The property was sold in May 2010 to Dunland Property. Settlement occurred on 6 July 2010.

Development of that land and any related development applications are matters for the new owners and local and state governments.

**Climate Change**

(Question No. 168)

**Senator Ian Macdonald** asked the Minister representing the Minister for Climate Change and Energy Efficiency, upon notice, on 18 October 2010:
With reference to the following online articles, ‘Royal Society issues new climate change guide that admits there are “uncertainties” about the science’ (by Niall Firth of the UK Daily Mail, 30 September 2010) and ‘Royal Society bows to climate change sceptics’ (published in The Times, 30 September 2010): Is the Minister aware of these articles and what response does the Minister have.

Senator Wong—The Minister for Climate Change and Energy Efficiency has provided the following answer to the honourable senator’s question:

The Minister is aware of the Royal Society report, Climate change: A Summary of the Science. The Minister notes that the report summarises the current scientific understanding of climate change and clarifies the levels of confidence associated with this understanding. The report states it is drawn from “recent evidence and builds on the Fourth Assessment Report of Working Group I of the Intergovernmental Panel on Climate Change, published in 2007, which is the most comprehensive source of climate science and its uncertainties”.

The Minister is aware of a number of media articles commenting on the Royal Society Report. In particular the Minister is aware of the Letter to the Editor from the Vice-President of the Royal Society to The Australian newspaper following its reporting. The Letter states:

“Sir,

In your coverage of our newly published ‘Climate change: a summary of the science’ (Top science body cools on global warming 2nd October) your correspondents suggest that the Society has changed its position on climate change. This is simply not true. There is no greater uncertainty about future temperature increases now than the Royal Society had previously indicated. The science remains the same, as do the uncertainties - as anyone who actually reads the document can see. Indeed, the purpose of the new guide is precisely to help people understand what is well established and what is still uncertain. There is strong evidence that changes in greenhouse gas concentrations due to human activity are the dominant cause of the global warming that has taken place over the last half century. The warming trend is expected to continue but the sizes of future temperature increases are still subject to uncertainty. Sound scientific evidence must be the basis of public debate and it is on evidence that the Royal Society bases its work.

Yours sincerely
Professor John Pethica
Vice-President of the Royal Society”

Lifeline

(Question No. 173)

Senator Siewert asked the Minister representing the Minister for Mental Health and Ageing, upon notice, on 28 October 2010:

With reference to the toll free mobile phone access to Lifeline that is a component of the Government’s $277 million suicide prevention plan:

(1) Has the department commenced implementing the toll free mobile phone access to Lifeline.

(2) Is the department required to negotiate with each mobile telecommunications carrier individually; if so, with which, if any, mobile telecommunications carriers has the department secured toll free mobile phone service contracts.

(3) Has the department engaged any additional staff or consultants to assist with the negotiations of these contracts.

(4) (a) What is the timeline for implementing the commitment; and (b) when is it expected to be available to Lifeline callers.
(5) What is the budgeted total cost of rolling out this service to Lifeline callers.
(6) What is the budgeted total cost payable to the mobile telecommunications carriers to: (a) implement this service; and (b) maintain this service on an annual basis.

Senator Ludwig—The Minister for Mental Health and Ageing has provided the following answer to the honourable senator’s question:

(1) Contractual arrangements, to commence from 1 July 2011, will be negotiated with Lifeline once Appropriation Bills are passed.
(2) It is anticipated that, as part of contractual arrangements, Lifeline will take carriage of this task.
(3) No.
(4) (a) Funding to Lifeline to implement this measure will commence from 1 July 2011. (b) This depends on the negotiations between Lifeline and telecommunications carriers. Precedent exists in this regard with Optus providing mobile phone users with toll free access to Kids Helpline.
(5) Toll free mobile phone access is one component of an $18.1m commitment involving funding to Lifeline. The details of the budget allocation for activities under this commitment are subject to the negotiation of a funding agreement with Lifeline (response to question 1 above refers).
(6) As per response 5 above.