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SENATE

ENVIRONMENT AND COMMUNICATIONS LEGISLATION COMMITTEE

Tuesday, 19 February 2019

Members in attendance: Senators Bilyk, Cameron, Chisholm, Duniam, Hanson-Young, Keneally, Lines, Martin, O'Neill, Polley, Dean Smith, Urquhart.
COMMUNICATIONS AND THE ARTS PORTFOLIO

In Attendance

Senator Fifield, Minister for Communications and the Arts

Department of Communications and the Arts

Program 1.1

Mr Mike Mrdak, Secretary
Mr Richard Eccles, Deputy Secretary
Ms Vicki Middleton, First Assistant Secretary, Strategy and Research
Ms Pauline Sullivan, First Assistant Secretary, Market Reforms
Dr Carolyn Patteson, First Assistant Secretary, Content
Mrs Jennifer McNeill, First Assistant Secretary, Infrastructure and Consumer
Ms Jo Talbot, Chief Operating Officer, Corporate
Ms Sarah Vandenbroek, Chief Financial Officer, Financial Services
Ms Leonie Holloway, Chief Economist, Bureau of Communications and Arts Research
Mr Richard Bullock, Assistant Secretary, Strategy
Mr Andrew Madsen, Assistant Secretary, Broadband Implementation
Ms Kathleen Silleri, Assistant Secretary, Consumer Safeguards
Mr Mike Makin, Assistant Secretary, Media Policy
Mr Aaron O'Neill, Acting Assistant Secretary, Classification
Mr James Penprase, Assistant Secretary, Digital Media and Copyright
Ms Rebecca Rush, Assistant Secretary, Post and ACMA
Mr Tristan Kathage, Assistant Secretary, Competition
Mr Philip Mason, Assistant Secretary, Universal Service Obligation Taskforce
Mr Lachlann Paterson, Assistant Secretary, Regional Deployment
Ms Sylvia Spaseski, Assistant Secretary, Consumer Broadband Services
Ms Rachel Blackwood, Acting Assistant Secretary, Spectrum and Security

Program 2.1

Dr Stephen Arnott, First Assistant Secretary, Arts
Ms Caroline Fulton, Assistant Secretary, Creative Industries
Ms Justine Curnow, Assistant Secretary, Access and Participation
Ms Ann Campton, Assistant Secretary, Collections and Cultural Heritage
Mr Ryan Webb, Acting Assistant Secretary, Arts Development and Investment

Australian Communications and Media Authority

Ms Nerida O'Loughlin, Chair
Ms Creina Chapman, Deputy Chair and Chief Executive Officer
Ms Helen Owens, Acting General Manager, Corporate and Research
Ms Jonquil Ritter, Acting General Manager, Content, Consumer and Citizen
Ms Linda Caruso, Acting General Manager, Communications Infrastructure
Mr Mark Arkell, Manager, Spectrum Engineering and Space
Mr Vince Humphries, Executive Manager, Communications Safeguards and Networks
Mr Jeremy Fenton, Executive Manager, Unsolicited Communications and Education
Ms Rochelle Zurnamer, Acting Executive Manager, Content Safeguards
Mr Allan Major, Executive Manager, Operations Services and Technologies
Mr David Brumfield, Executive Manager, Spectrum Management Policy
Mr Hugh Clapin, Acting Executive Manager, Spectrum Review Implementation
Mr Matthew Geysen, Executive Manager, Procurement and Finance
Mr Nathan Penhaligon, Acting Chief Information Officer and Executive Manager, Information and Communications Technology

Office of the eSafety Commissioner
Ms Julie Inman Grant, Commissioner
Ms Maria Vassiliadis, Executive Manager
Ms Tarina Mather, Executive Manager
Mr Stuart Wise, Business Manager

Australian Broadcasting Corporation (ABC)
Mr David Anderson, Acting Managing Director
Mr Alan Sunderland, Editorial Director

Screen Australia
Mr Graeme Mason, Chief Executive Officer
Mr Michael Brealey, Chief Operating Officer

Australia Council
Mr Adrian Collette, Chief Executive Officer
Mr Tim Blackwell, Executive Director, Corporate Resources
Dr Wendy Were, Executive Director, Strategic Development and Advocacy

NBN Co Limited
Mr Steven Rue, Chief Executive Officer
Mr Brad Whitcomb, Chief Customer Officer, Residential
Ms Katherine Dyer, Chief Network Deployment Officer

Committee met at 09:01

CHAIR (Senator Duniam): I declare open this meeting of the Senate Environment and Communications Legislation Committee. The Senate has referred to the committee the particulars of proposed additional expenditure and particulars of certain proposed additional expenditure for 2018-19 for the portfolios of Environment and Energy and Communications and the Arts and other related documents. The committee has set Friday, 29 December 2019 as the date by which answers to questions on notice must be returned. The committee's
proceedings today will begin with general questions of the Department of Communications and the Arts, and we will then follow the order as set out in the program.

Under standing order 26, the committee must take all evidence in public session. This includes answers to questions taken on notice. Officers and senators are familiar with the rules of the Senate governing estimates hearings. If you need assistance, please see the secretariat for copies of the rules. The Senate has resolved also that an officer of a department of the Commonwealth shall not be asked to give opinions on matters of policy and shall be given all reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for explanations of policies or factual questions about how and when policies were adopted.

I particularly draw to the attention of witnesses an order of the Senate dated 13 May 2009, specifying the process by which a claim of public interest immunity should be raised. Witnesses are specifically reminded that a statement that information or a document is confidential or consists of advice to government is not a statement that meets the requirements of the 2009 order. Instead witnesses are required to provide some specific indication of the harm to the public interest that could result from the disclosure of the information or the document. I now incorporate the public immunity statement.

_The extract read as follows—_

**Public interest immunity claims**

That the Senate—

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

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

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

(1) If:

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

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

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

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

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

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

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

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

d) requires the Procedure Committee to review the operation of this order and report to the Senate by 20 August 2009.

(13 May 2009 J.1941)

(Extract, Senate Standing Orders)

Department of Communications and the Arts

[9:01]

CHAIR: I welcome the minister, Senator Fifield. Do you have an opening statement you'd like to make?

Senator Fifield: No, thank you.

CHAIR: Welcome, Mr Mrdak. Do you have an opening statement?

Mr Mrdak: No, Chair. I am happy to go to questions.

CHAIR: Excellent. We will kick off with general questions of the department.

Senator URQUHART: Minister, where is your communications road map? You were asked for one in 2016. Where is that up to?

Senator Fifield: The communications road map is something that is very close to release.

Senator URQUHART: A couple of weeks, or—

Senator Fifield: Within a month.

Senator URQUHART: Minister, where is your content review?

Senator Fifield: As we've canvassed previously, a content review was commissioned that involved ACMA, the department of communications and Screen Australia. That is one input into the government's assessment of the supports and encouragements for Australian screen content. You would be aware, Senator, that the government has already announced the establishment of a location incentive arrangement to supplement the existing location offset.
That represents part of the government's efforts to refurbish this area of policy. I can indicate that within the month I will be making a statement on the screen industry.

Senator URQUHART: Minister, where is your deregulation bill? It was introduced in March 2017 but you're yet to bring it to a vote in the Senate. It's been almost two years. What have you done with it?

Senator Fifield: Senator, would you mind giving the title of the bill? There are numerous telecommunications regulation bills which have gone to the parliament. It would assist us—


Senator Fifield: Again, I don't think that's the full title of a bill. There are a range of changes which are periodically made to telecommunications legislation.

Senator URQUHART: It is the Telecommunications Legislation Amendment (Deregulation and Other Measures) Bill.

Mr Mrdak: My understanding is that the particular bill you're referring to has been introduced into the Senate but is not scheduled for debate at this stage. I'll ask my colleague Mr Kathage to give you an update.

Senator Fifield: Senator, as you know, there's often pressure in terms of the legislative agenda. There are dozens of bills in this portfolio over time.

Senator O'NEILL: That's because you have a part-time parliament.

Senator KENEALLY: If you sat more days—

CHAIR: Order! You have just walked in. Could the minister please be allowed to answer the questions properly and without interruption.

Senator Fifield: Also bills tend to be brought forward when there are sufficient colleagues in the Senate who will support a proposition.

Senator KENEALLY: Is your evidence, then, Minister, that you have neither enough days nor enough support in the Senate to pass that bill?

Senator Fifield: No, I'm just providing general context for the legislative program.

Senator KENEALLY: We are senators. We understand how the Senate works. Maybe you could answer Senate Urquhart's question as to what's happening with this particular bill.

Senator Fifield: From memory, this particular bill is one that we had been hoping to deal with through the non-controversial part of the legislative program. As you know, when no party has an issue, things can pass through quickly. I would have thought that that was non-controversial but I'm advised that, for some reason, the Labor Party have sought to link this bill to the regional broadband scheme bill and have said that they won't support this particular bill, which is not controversial, until such time as the regional broadband scheme bill has been put forward. The reason that bill hasn't been put forward is that we've been in active and, I think, productive negotiations with the Australian Labor Party.

Senator KENEALLY: So you're still in discussions?

Senator Fifield: On the regional broadband bill, which, for some reason which is not clear to me, Labor have sought to link with this other bill, which is not controversial. They have said that they won't allow it to be dealt with quickly in the non-controversial part of the sitting week.
That's perhaps a question that Labor senators could better answer, as to why they're not prepared to support this particular bill in the non-controversial section of the sitting week.

Senator KENEALLY: Could you point to any evidence that Labor has made that claim?

Senator Fifield: It's what's been communicated, I understand, to my office from the shadow minister's office.

Senator KENEALLY: Could you point to any evidence that Labor has made that claim?

Senator Fifield: There are frequent conversations, most of which I believe would be verbal, between those two offices.

Senator KENEALLY: My understanding is that Labor has simply said they wouldn't have the legislation listed as non-controversial. You're making an assertion about linking it to another piece of legislation. I am asking if you can provide any evidence to back up your claim that this is Labor's position.

Senator Fifield: That's what I'm advised by my office as a result of their conversations with the relevant shadow's office.

Senator O'NEILL: You might want to double-check that. I don't think that's right.

Senator Fifield: If it's not linked to that, then Labor senators might care to share with the committee why they're not prepared to have that piece of legislation listed in the non-controversial part of the legislative program.

CHAIR: To clarify, that bill passed the House of Reps non-controversially—is that right? It was not opposed?

Senator Fifield: That's correct. It wasn't opposed by Labor in House but Labor are now declining to permit it. I know that colleagues around this table know, but those watching or reading Hansard might not appreciate that in the Senate we have a period of time each week when non-controversial legislation is dealt with very quickly. But the way that that particular time of the legislative program operates is that any individual senator can, in effect, veto something being dealt with in the non-controversial section of the legislative program. The Labor Party have done so.

Senator URQUHART: Minister, how many individual legislative deals have you made with Pauline Hanson in relation to the ABC? Can you list them?

Senator Fifield: Senator, you would be aware that, in the context of media reform, a number of colleagues on the crossbench indicated that there were particular propositions that they wanted to put forward for government consideration. You would be aware that amongst those propositions for consideration were some in relation to the ABC, an example of which was legislation to put into the ABC's charter for the first time specific reference to its obligations to rural and regional Australia. That particular piece of legislation also had in it a provision that there be at least two members of the ABC board who are from rural or regional Australia or who had been associated with substantial activities in rural and regional Australia, and also that there be a regional advisory council established. That particular piece of legislation is in the parliament. There are a couple of other pieces of legislation.

Senator URQUHART: Can you list what they are, particularly in relation to One Nation?

Senator Fifield: We have before the parliament legislation to have an insertion into the ABC's act that the ABC should be fair and balanced. We also have legislation before the
parliament that would require a similar level of transparency for ABC salaries of senior staff to that which is required for members of parliament, members of the judiciary and senior members of the military. They are the main pieces of legislation.

Senator URQUHART: That is two. Are there only the two?

Senator Fifield: I think they constitute three. I think I have mentioned three pieces of legislation.

Senator URQUHART: Sorry—the media reform, yes. So it is just those three?

Senator Fifield: Yes. The rural and regional bill, the fair and balanced bill and the salary transparency bill.

Senator URQUHART: Minister, what has happened to the spectrum review reforms that you promised to legislate in this term of parliament? Where are they? You said they were part of your vision for the portfolio.

Senator Fifield: You are referring to the radcomms bill, I assume. Mr Mrdak will talk to that. As I think those who are close to this area appreciate, this is a very complex area where it's important to consult closely with stakeholders. We have been fundamentally following the recommendations of stakeholders, who have wanted the opportunity to comment on exposure drafts.

Mr Mrdak: We are currently working through a revised draft of the bill. As I think I indicated in previous hearings of this committee, that has been somewhat delayed due to availability of drafting resources through the office of parliamentary drafting. We anticipate the revised draft of the bill being made available in the next month or so. That will be then made available to industry for industry consultation prior to the bill being considered by the minister for introduction. The team that's been working on it has done an enormous amount of work to draft the bill. That's nearing completion.

Ms Sullivan: We're just in the process of finalising drafting now and, as Mr Mrdak said, it'll be ready for release subject to the minister's approval.

Senator KENEALLY: Minister, following the Productivity Commission review into the universal service obligation, you set up a USO departmental task force. What's been the outcome of that process?

Senator Fifield: That's a group within the department which is working on this significant body of work. As colleagues would appreciate, the USO arrangements which are currently in place were fundamentally designed for a world not just before the NBN existed and responsibilities were progressively transferred there but also for a world before mobile telephony was something that had significant penetration. Colleagues would also be aware that there's $300 million a year which goes to Telstra to support the USO, which is a combination of a levy on the sector and government funding. The USO covers a requirement for fixed line and also for payphone provision. There has been a great deal of work undertaken there. The government has announced as part of that work the concept of a universal service guarantee. That is something that flows from both that work and the work that the Productivity Commission had previously done. The USG is a concept which outlines the way forward.
Mr Mrdak: As the minister has indicated, the minister made an announcement on 5 December last year setting out the government's position at this time on the USG. As you would be aware, the government earlier last year had announced the extension of the USG to include broadband availability to the community. The work that had initially been done by the task force was completed. The government considered that work and took a number of decisions in relation to that, one of which was, given the costs involved in providing services within the copper remaining network, to do further work on future technologies as well as looking at future work on payphone availability. That work is continuing.

Coming back to your question on the task force, that team continues. That is a team of five people in the department who are continuing research work and technical analysis of further options for availability of services to rural and regional Australia.

Senator Fifield: I should add that as part of the USG announcement the government made clear that while the USG is an evolution of the USO, and the USG does formally add that the NBN is the component that will ensure broadband services to the nation, we would not be altering the formal existing USO arrangements until we could determine something that would not see any removal of guarantees for rural and regional Australia.

Senator KENEALLY: The Productivity Commission review commenced in June 2016. The task force, I believe, you set up in June 2017. And then in December 2018 you announced the USG concept—to borrow your word. I'm still struggling to understand how that's anything more than a new acronym that describes existing safeguards for the delivery of phone and broadband services. Could someone please explain to me why the USG is different to the USO?

Senator Fifield: The USO is a contract that is in place with Telstra. What we have done with the USG is to formally recognise that there is now a community expectation that broadband services and their provision be part of what a government guarantees.

Senator KENEALLY: We might leave that there, Minister, and move on. Why did Mr Bill Morrow only give you 24 hours notice that he was going to take the halt of the HFC rollout to the board of NBN Co?

Senator Fifield: I would have to check the time frames involved. The HFC halt was some time ago, so I'd need to check the timelines.

Senator KENEALLY: You'll need to check the time frames as to when Mr Morrow gave you notice—is that what you said?

Senator Fifield: Yes. This is more than a year ago. I'd have to check the time lines.

CHAIR: We also have NBN this afternoon—if that's helpful to Senator Keneally.

Senator KENEALLY: Thank you, Chair. I have read the agenda.

CHAIR: Good. There's another opportunity to ask that question when the officers are here.

Senator O'NEILL: I would have thought, after our conversations around that, Minister Fifield, that you'd have a deep and lasting memory of the dysfunction that was evident in the short notice that the government received. Is it a bad memory you try to forget?

Senator Fifield: No, Senator. We all have busy roles as ministers and as senators. That was more than a year ago, so I would need to check the time line.
Senator KENEALLY: Minister, the Australian and Children's Screen Content Review kicked off in May 2017. I understand that you have had a report of the review for well over a year and that, despite a Senate order for the production of documents to table the report, you are claiming public interest immunity. What is the hold-up in finalising this review?

Senator Fifield: We canvassed these matters with Senator Urquhart about 15 minutes ago.

Senator KENEALLY: You don't have anything more to add? I don't think you did canvass this. There's a content—

Senator Fifield: Yes, there was a content—

Senator KENEALLY: She did ask it, yes, you are correct.

Senator Fifield: That's right. She asked me questions which I answered 15 minutes ago.

Senator KENEALLY: Do you stand by your claim of public interest immunity in this?

Senator Fifield: In relation to the provision of a document which is one input into government consideration, yes.

Senator KENEALLY: You do know that the claim about cabinet deliberations cannot be made simply because a document has the word 'cabinet' in it. I'm trying to understand how the disclosure of this document would reveal cabinet deliberations if you do not intend to take a policy before the cabinet.

Senator Fifield: I refer you to the document which I have provided to the Senate.

Senator KENEALLY: For the record, again, is there any time frame we can anticipate as to when you might be finalising this review—just one more time?

Senator Fifield: I indicated to Senator Urquhart that the government would be making a screen statement within the month.

Senator O'NEILL: Minister, would you be able to give us some idea about who monitors your email in-tray?

Senator Fifield: Who monitors my email in-tray?

Senator O'NEILL: Yes, and your incoming communication.

Senator KENEALLY: Not just email—all of it.

Senator Fifield: I have a senator email account, which I monitor. And there is a ministerial one, which my office monitors.

Senator O'NEILL: And other forms of incoming correspondence that might come through—the tray that arrives on your desk and—

Senator Fifield: They're registered by the office and provided to me after registration. Simultaneously, as is the practice, I think, in most ministerial offices, copies also go to the department for appropriate action to commence.

Senator O'NEILL: And you have somebody monitoring all that movement of files within and around your office and in and out of your office?

Senator Fifield: Correct.

Senator O'NEILL: A thing that interests me, and I know interests other people, is the concept of the Bermuda Triangle where things disappear. I'm sure, Minister, you're aware that
a new phrase has been coined in your honour: the Fifield triangle, where things just disappear into your office and never emerge. Is that a phrase that you've become familiar with?

Senator Fifield: People in this building use all sorts of pejorative characterisations for those on the opposite side of the chamber.

Senator O’NEILL: It's so significant that it's noteworthy. You've got headlines like 'Reform adrift in Fifield triangle', an article by Stephen Brook in The Australian. You've got the 'Bermuda Triangle award' given to your office in a media diary article. People are very concerned about things that just disappear in your office, including some of the legislation we've been referring to this morning.

Senator Fifield: The legislation referred to this morning would have been dealt with if the Australian Labor Party had not vetoed its being dealt with in the non-controversial part of the—

Senator O'NEILL: We've already considered that you haven't been quite truthful in your response there, Minister.

Senator Fifield: No, Senator. The Australian Labor Party have been clear that that legislation they are not prepared to allow to be dealt with in the non-controversial part of the sitting week.

Senator O'NEILL: We'll wait for you to actually provide some substantiation of the claim that you've made there. Going to one of the very serious concerns I have about things that seem to go missing in your office, Minister, blind Australians continue to miss out on equality of access to television. We know that there was a trial commissioned by Labor to provide audio description on terrestrial television back in the long ago of 2012. It took a while for you guys to get on board but the Liberal government commissioned an iView trial in 2016. This is now your sixth year in office as a government and to date you have failed to get audio description implemented for blind and low-vision Australians. Minister, why have you stymied and failed to deliver on this fundamental human rights issue for blind and vision-impaired Australians?

Senator Fifield: Let me make a few observations at the outset. Firstly there is no legislative impediment to free-to-air TV, commercial and public broadcasters, to implement audio description. There is no impediment to doing that. The government commissioned—

Senator O'NEILL: Are you saying that we should just leave it to the market, Minister?
Senator Fifield: Can I finish speaking, please? As I say, there is no legislative impediment to the public broadcasters or commercial free-to-air broadcasters implementing audio description. The government commissioned an audio description working group to provide information that would assist the broadcasters in relation to this. It's clear that that has not been taken up, so I am going to be writing to the broadcasters, commercial and public, asking them how they can implement audio description, what level of coverage they think they would be able to achieve, and how they might be able to bring this to pass. I should also add that I think the ABC and SBS should be leading by example in this area. The ABC charter says that they have the responsibility to provide services for all Australians, and I would hope that the ABC and SBS can lead by example in this area.

Senator O'NEILL: Perhaps if you didn't cut their funds it wouldn't be such an issue. In 2012 the trial was commissioned. You commissioned another one in 2016. It's your sixth year and the best you can tell me is that you're now going to write a letter. Is that really adequate for the federal minister for communications to have ignored this issue for blind and low-vision Australians for this period of time?

Senator Fifield: The issue hasn't been ignored.

Senator O'NEILL: It hasn't been fixed.

Senator Fifield: As indicated, there is no impediment to broadcasters putting their services into place. We commissioned the working group to assist in that endeavour. I have indicated to you the next steps that I'll be taking.

Senator O'NEILL: Minister, I remind you that Labor legislated captioning for deaf and hearing impaired. Labor also funded the trial of AD for the blind. That's real action from a government that hasn't forgotten people with disability. It contrasts quite significantly with the fact that here we are just a few weeks from an expected federal election, and your action is going to be to write to the commercial broadcasters and leave it, it would seem to me, to the market. How can I be convinced that this isn't a wholly inadequate response from the government to a significant part of our population that deserves better?

Senator Fifield: I've answered your question.

Senator O'NEILL: Minister, why did you prioritise the grant of $30 million of taxpayer funds to Foxtel for women's sport over securing implementation of audio description for blind Australians? That was a choice.

Senator Fifield: We've already canvassed in Senate estimates on numerous occasions the background to the various elements of the media reform package.

Senator O'NEILL: Yes and I do recall that I was not satisfied with those answers and your rationale at the time. Governing is about making choices. My question is quite different from a detailed analysis of your rationale for giving Fox Sports $30 million. My question is: why would you prioritise $30 million to Fox Sports over funding the necessary implementation of access to communications for blind Australians?

Senator Fifield: Governments pursue a range of tasks at the same time.

Senator O'NEILL: One was pursued and delivered, and blind Australians were left behind. That's a choice.

Senator Fifield: I've answered your question, Senator.
Senator O'NEILL: Minister, I'm genuinely interested: why did you abandon Malcolm Turnbull?

CHAIR: How does that relate to the portfolio, Senator O'Neill.

Senator O'NEILL: I don't know. Maybe Malcolm was telling him he should do something about blind Australians and he didn't want to follow him. I don't know.

CHAIR: If you don't have questions that are related to the portfolio, we can move to Senator Hanson-Young. Otherwise please stick to the portfolio.

Senator O'NEILL: What elements of the communications package were so important that they determined your decision to vote for Mr Dutton?

Senator Fifield: Chair, Senator Keneally pursued a similar line of questioning last estimates. It was completely unrelated to the portfolio.

Senator O'NEILL: So your decision to change from Mr Turnbull to Mr Dutton had nothing to do with your portfolio responsibilities? Neither of them—

CHAIR: Senator O'Neill, do you have any portfolio related questions, or should I go to Senator Hanson-Young?

Senator O'NEILL: I am asking whether the portfolio he holds, the communications portfolio, was significant in his decision to switch from Prime Minister Turnbull to Mr Dutton in the leadership contest?

CHAIR: I think the minister has just answered that.

Senator KENEALLY: No, he didn't.

CHAIR: He did—and last estimates too.

Senator KENEALLY: No, he didn't.

CHAIR: Yes, he did. Do you have any further questions? We will move on.

Senator O'NEILL: I still don't feel like I heard an answer. Was the communications portfolio part of your decision-making in switching your vote from Mr Turnbull to Mr Dutton?

Senator Fifield: Chair, I'm happy to answer questions in relation to the portfolio.

Senator KENEALLY: Were there any policy issues in the communications portfolio you felt were failing under Prime Minister Turnbull and that Minister Dutton would do a better job of addressing?

Senator Fifield: Chair, this is the same line of questioning that Senator Keneally pursued last estimates.

Senator O'NEILL: Minister, is it true that you told Mr Turnbull that you wouldn't accept the communications portfolio unless you also received the arts portfolio, because that was your preference? Communications was a bit of a punishment. Is that true?

Senator Fifield: No, that is not true.

Senator O'NEILL: Given the Fifield triangle into which so much of the necessary action in communications has fallen, does it surprise you that people believe that the communications portfolio is not your area of passion or interest and you've actually not been paying attention?
Senator Fifield: I think what people recognise is that this government has achieved the most comprehensive media reform in a generation, that we have succeeded in the face of the opposition of the Australian Labor Party in putting through this parliament comprehensive media reform: abolition of the 75 per cent audience reach rule; abolition of the two out of three rule; and significant reform of the spectrum charging arrangements for free-to-air radio and free-to-air TV, which amounted to a very significant tax cut for these organisations. We did these things because we wanted to give Australian media organisations the best opportunity of being able to compete against the global giants, because if Australian media organisations have viability then they're in a much better position to employ journalists and to undertake their important work.

I think it's recognised that that significant reform occurred. I also think it's recognised that the NBN has passed 75 per cent completion. This has been the biggest infrastructure project in Australia's history and is rolling out at a pace delivering faster speeds to people. I think that's recognised. I think some of the significant reforms that we've made in the area of copyright law are recognised as well. I could continue, Mr President, but they are just a few—

Senator O'NEILL: Mr President?

Senator Fifield: Maybe I'm looking into your future, Chair.

CHAIR: I do not covet that position.

Senator Fifield: I think those significant achievements are recognised, Chair.

Senator HANSON-YOUNG: On 18 January this year the Prime Minister, Scott Morrison, announced a partnership with Free TV to provide 1,000 hours of new Australian television content to Pacific broadcasters to the tune of $17.1 million a year over three years. Mr Mrdak, was the department consulted about this decision?

Mr Mrdak: Yes.

Senator HANSON-YOUNG: When did conversations first arise with you and your department about this?

Mr Mrdak: I'd have to take on notice the exact timing but it was over a period of months last year as the government was framing its policy position in relation to improving engagement with the region.

Senator HANSON-YOUNG: Was this a decision made purely by the department of communications, or was this a decision made by DFAT in which you were consulted?

Mr Mrdak: The work was coordinated by the central agencies, the Department of the Prime Minister and Cabinet and DFAT, as part of developing an agenda for the government's engagement with the region. The department was one of many departments that provided contributions to that process.

Senator HANSON-YOUNG: Did the department provide advice to the minister in relation to this decision, whether it's good, bad or otherwise?

Mr Mrdak: We provided advice through that coordinating process by agencies and also in discussions with the minister.

Senator HANSON-YOUNG: Who made the decision that $17.1 million over three years would go to Free TV—that is, the commercial broadcasters—to offer this service?
Mr Mrdak: That's a decision of the government.

Senator HANSON-YOUNG: Minister, was it your decision or the Prime Minister's?

Senator Fifield: It was a decision of government.

Senator HANSON-YOUNG: Did you take this proposal to cabinet, or was it a decision put forward by the Prime Minister?

Senator Fifield: It's a decision of government.

Senator HANSON-YOUNG: Did you get rolled?

Senator Fifield: It's a decision of government, which I support.

Senator HANSON-YOUNG: Mr Mrdak, could you please explain how this will work? How much money will be paid to Free TV out of the $17.1 million?

Mr Mrdak: This is still subject to finalisation of the package and negotiations with Free TV. Free TV is operating as a representative of the Australian industry and is coordinating, as we see it, making available packages of content from the rights holders and the producers of that content. We envisage a contract with Free TV and they would then utilise those funds to buy the content package. The negotiations are underway with Free TV in relation to those arrangements, in terms of both developing the appropriate content and the cost of that content and also, most importantly, determining how that content will be made available to broadcasters in the region.

Senator HANSON-YOUNG: Out of the $17.1 million, how much do you think will end up going to those commercial broadcasters?

Mr Mrdak: That's to be determined on the basis of the content. But we envisage that the bulk of that funding would be made available to the rights holders and the producers of that content.

Senator HANSON-YOUNG: What kind of content will Free TV and their commercial members be expected to provide?

Mr Mrdak: The government has announced that it's seeking up to around 1,000 hours per annum of Australian content that would be provided to broadcasters in the region. That would cover the variety of programs that are available on commercial networks, ranging from drama and Australian comedy to Australian documentaries and Australian reality television programming.

Senator HANSON-YOUNG: Australian reality television programming?

Mr Mrdak: Yes, the full suite of programs that are available on Australian networks.

Senator HANSON-YOUNG: So Married at First Sight and The Bachelor—that's the kind of stuff we're going to be exporting to our Pacific neighbours?

Mr Mrdak: That's yet to be determined. That will be somewhat determined by the availability of the programming and also judgements about what would best be sought by broadcasters in the region for their audiences.

Senator HANSON-YOUNG: Who makes the decision as to what's appropriate and what isn't, if this is part of a soft diplomacy attempt? Surely it shouldn't be left to the commercial broadcasters or the producers of Married at First Sight as to whether that's appropriate?
Mr Mrdak: The judgement would be first informed by what the broadcasters in the region are seeking in terms of additional content for their communities. Part of this to ensure that more Australian content is available in the region, but that will be very much determined by the broadcasters as to what they wish to run in those particular nations.

Senator HANSON-YOUNG: So they will decide?

Mr Mrdak: We'll be doing an assessment with Free TV and those broadcasters as to what their needs are. Then the judgement ultimately will come down, based on that and their needs, to a judgement between ourselves, those broadcasters and Free TV as to the content that would be made available.

Senator HANSON-YOUNG: What about children's content? Is there going to be a quota on children's content?

Mr Mrdak: Not a quota to my knowledge, but that is an area which we would be looking at for potential content as well.

Senator HANSON-YOUNG: Will there be a formal agreement between the department and the government and Free TV? Will it be a contract per se?

Mr Mrdak: Yes.

Senator HANSON-YOUNG: Who will actually draft that contract, or has it already been drafted?

Mr Mrdak: It is yet to be drafted. We're in discussions with Free TV. But that contract would be prepared by us and in negotiations with Free TV.

Senator HANSON-YOUNG: And work on that has already begun?

Mr Mrdak: Yes.

Senator HANSON-YOUNG: Did the government approach Free TV, or did the commercial broadcasters come to the government and offer their services?

Mr Mrdak: The approach was made by the government to Free TV.

Senator HANSON-YOUNG: On what basis did the government choose to take this public money to give to commercial broadcasters instead of using the public broadcasting services?

Mr Mrdak: The government sought to ensure a variety of Australian content was made available to the broadcasters in the region. This is not the Australian government broadcasting the material per se. It did seek to get a range of Australian content to be made available. The government's decision was that that would best be provided by Free TV coordinating the purchase of that content and the rights to broadcast that content from the Australian production companies, both the Australian networks and the producers of Australian content.

Senator HANSON-YOUNG: And you don't believe that the ABC and SBS have a diverse range of content available?

Mr Mrdak: The government's decision was to try to provide a variety of content, recognising that Australian news content is available in the region already through the national broadcasters. What was being sought was a greater diversity of content. The government's decision was that that was best made available by the Australian private commercial sector and broadcasting sector.
Senator HANSON-YOUNG: Was Free TV promised anything apart from the extra money to provide this service?

Mr Mrdak: No. This is a straight commercial arrangement between the government and Free TV based on what's been announced by the government.

Senator HANSON-YOUNG: And Free TV have agreed because $17.1 million a year is a pretty good deal for them?

Mr Mrdak: They've agreed to participate because they recognise the importance of Australian content being made available to the region and they are assisting the Australian government's engagement with the region.

Senator HANSON-YOUNG: Will Free TV be bound by the rules that apply to broadcasters in Australia when they're broadcasting in the Pacific? Will the same regulations, rules and quality standards apply?

Mr Mrdak: Judgements, as we discussed, are yet to be made on what content will be finally selected. The judgement on the broadcasting will be for those broadcasters in the region, not for Free TV in terms of what is broadcast and when. But certainly the decision on what content is appropriate and will be selected is a judgement that will be made between the government and Free TV, based on the needs of those broadcasters.

Senator HANSON-YOUNG: So it could be a situation where content that's not deemed appropriate under one classification here in Australia could be deemed appropriate for broadcasters to sell as part of this package in the Pacific?

Mr Mrdak: The Australian government is making the rights available for this content to the broadcasters in the South Pacific. They would make their own judgements as to the appropriateness of the content for their audiences. It is an offer of content to those broadcasters. Those judgements would be made by the parties who are broadcasting. Certainly in any such matter it's important to recognise that the Australian government is looking to make more Australian content available to the region as part of strengthening our relationship with the region. Content will selected on that basis.

Senator HANSON-YOUNG: I hear what you're saying: broadcasters in the Pacific will make their decisions about whether content's appropriate for them to put to air. My question is more around this being Australian taxpayer money—the money that is used to create content. It would seem a bit odd if it were used to create content that is outside what is appropriate here in Australia.

Mr Mrdak: I don't envisage that we'd be selecting content to be made available that would not be deemed appropriate for broadcast in Australia. This is content which largely will have already been broadcast in Australia. It's not new content; it is making that content available to those other broadcasters at no cost.

Senator HANSON-YOUNG: At what point will the content be aired in the Pacific? Will it first be aired here? Will it be a requirement that content would have to be first aired in Australia before it can be sold off as part of this package?

Mr Mrdak: That will somewhat depend on the rights holders, particularly for series that are yet to be broadcast, as to whether they would be prepared to have new material broadcast in the region ahead of Australia. But certainly, from my understanding, we envisage that it
would be material that has already been broadcast in Australia and we would be purchasing the rights on behalf of, effectively, those Pacific broadcasters to enable that material to be shown in their countries.

Senator HANSON-YOUNG: Do you see that this all sounds a bit rich? We've got these commercial broadcasters lobbying and begging to have Australian content quotas slashed here, back home, but now the government is going to pay them out of the public purse to create Australian content to be sold offshore. That's a bit out of whack.

Mr Mrdak: I think it's important to recognise that this is part of the Australian government seeking to improve our engagement with the region and build stronger ties with the region by making this material available. At the same it does provide, obviously, an opportunity for the sale of Australian content which may not otherwise be possible given the limited financial resources of many of the broadcasters in the region. So it has two elements. But the primary objective here is, as part of the Australian government's engagement with the region, to ensure Australian content is available in the region very broadly.

Senator HANSON-YOUNG: Is this $17 million per year going to have to be spent on new content, or can it just be repackaged old reruns of The Bachelorette?

Mr Mrdak: It can be available for new production but it is more likely to be spent on production that has already taken place and to purchase the broadcast rights to that content.

Senator HANSON-YOUNG: So it is just free money basically for these commercial broadcasters?

Mr Mrdak: It certainly would not otherwise be available for broadcast in the region were it not for this package. Mr Eccles may wish to add to that. He's been working with Free TV on this matter.

Mr Eccles: It's $17.1 million over three years that is being provided. In the process that we're engaged in with Free TV, we're in the process of negotiating the contract. Some of this may satisfy some of your questions. The first step is a bit of a discovery process to understand what the Pacific broadcasters believe to be of interest and value to their communities. Once we've got a good understanding of what sort of programming they would find useful and valuable, then there will be an assessment against the catalogue of programming that Australian rights holders might make available for the process. There will be a bit of a match-up. Free TV are coordinating it, given their skills and background in negotiating with Australian rights holders. The principal beneficiaries of this will be the Australian rights holders, who we will negotiate with through Free TV to broaden their rights exposure to include the Pacific islands.

Senator HANSON-YOUNG: Thank you, Mr Eccles. Mr Mrdak, did the minister or the department seek any legal advice about this decision and the signing of a contract this large with commercial broadcasters?

Mr Mrdak: We're yet to sign any contract. That work is underway. As with any contract we prepare, we'll obviously seek legal advice in the preparation of the contract. We did seek advice in relation to the matter of how any such arrangement would sit with the statutory responsibilities vested in the public broadcasters.

Senator HANSON-YOUNG: Do you have any concerns, then, about the lawfulness of an arrangement like this?
Mr Mrdak: No, we do not. This does not, in our view, in any way cut across the statute of responsibilities of the national broadcaster. Essentially we are not broadcasting material; we are making content available to other national broadcasters in the region.

Senator HANSON-YOUNG: How do you square that hole when we look at section 31AA of the ABC Act, 'Corporation or prescribed companies to be the only providers of Commonwealth-funded international broadcasting services', which specifically says, 'The Commonwealth must not enter into a contract' with somebody other than the public broadcasters?

Mr Mrdak: We have had advice and have looked at that from the perspective that the Commonwealth is not broadcasting the content or arranging for the broadcast; it is providing access to content for other national broadcasters. As Mr Eccles has outlined, we are effectively purchasing from the producers, not the Australian broadcasters. We are purchasing from the producers through a coordinator, Free TV, the content, and then making arrangements for that to be made available to the broadcasters in the region.

Senator HANSON-YOUNG: So you think you've found a tricky way to get around the spirit of the intention of this section of the broadcasting act?

Mr Mrdak: It's not at all an attempt to move around the obligations of the public broadcaster act. What it is is a deliberate attempt to make Australian content available to other national broadcasters. It is not an attempt at all to move away from the—

Senator HANSON-YOUNG: Why wouldn't you just take content from the ABC and SBS?

Mr Mrdak: The Australian government took the view that a broader range of content was more available from other sources than the national broadcasters for the purposes of ensuring that this sort of broader Australian content would be available in the region.

Senator HANSON-YOUNG: You sought specific legal advice around this section?

Mr Mrdak: We have sought advice, which has been provided internally within the department, in relation to this section of the act.

Senator HANSON-YOUNG: Who has given that advice? Is that lawyers inside the department, or have you gone through the Solicitor-General?

Mr Mrdak: It's been provided by a legal counsel within the department.

Senator HANSON-YOUNG: You haven't considered that being stress tested?

Mr Mrdak: I've seen no need to have the advice tested. It seems to me, based on the advice we have, that that is a robust position.

Senator HANSON-YOUNG: Would you be prepared to table that advice?

Mr Mrdak: It's legal advice provided within the department. I'll take that on notice.

Senator HANSON-YOUNG: Thank you. To be clear, the advice was specifically in relation to section 31AA?

Mr Mrdak: Yes, that is my recollection. But I will take that on notice.

Senator HANSON-YOUNG: Did the department consider that, in order to put at ease any concerns about possible breaches of the broadcasting act by giving this $17 million to
commercial broadcasters, perhaps it would be easier to amend the broadcasting act to ensure there were no complications?

Mr Mrdak: Given the nature of what the government has sought to do, we've seen no need to amend the broadcasting act.

Senator HANSON-YOUNG: Was there ever a suggestion that that might need to be done?

Mr Mrdak: Not to my recollection. As I said, the decision to proceed in this direction did not require any legislative change.

Senator HANSON-YOUNG: So no amendments have been drafted at all?

Mr Mrdak: Not to my recollection.

Mr Eccles: No.

Senator HANSON-YOUNG: And no briefing has been given to the minister in relation to possible amendments?

Mr Mrdak: No.

Senator HANSON-YOUNG: Are there any other plans to alter the ABC Act beyond those bills that are sitting there in what I think was referred to as the Bermuda Triangle?

Mr Mrdak: Not to my knowledge.

Senator HANSON-YOUNG: You haven't been asked to draft any other amendments to the ABC Act?

Mr Mrdak: No.

Senator MARTIN: The former Labor government commissioned a trial of audio description on broadcast TV using the ABC. That commenced on 5 August and finished on 4 November 2012. Minister, are you aware if the former Labor government following the trial funded or legislated for audio description?

Senator Fifield: No, neither of those things occurred under the previous government.

Senator CHISHOLM: Minister, why have you failed to genuinely reform the regulatory framework for measuring communications when the case for doing so has been established for many years?

Senator Fifield: I have fundamentally reformed the framework for media in Australia, as we canvassed a little earlier today. I shepherded through the parliament the most significant media reform since that of Mr PJ Keating. There really had not been any significant change to the media regulatory environment since that time.

As a result of that, we had the abolition of the 75 per cent audience reach rule, which prevented Australian TV entities combining if to do so would have resulted in them having more than 75 per cent audience reach in Australia. Obviously that was a redundant law, given that through streaming the same organisations can and do have 100 per cent reach. So we abolished the 75 per cent audience reach rule.

We also abolished the two out of three rule, which had previously prevented the one crowd having ownership of print, radio and TV in the same market. Again, this was something which was restricting the capacity of Australian media organisations to achieve scale. We
would all be aware that formerly Nine and Fairfax have now combined, something which previously would not have been possible.

We also significantly reduced the spectrum charges paid by free-to-air radio and free-to-air TV. Those spectrum charges that had previously been in place came into being in the fifties sixties, basically as the super profits tax of its time, because there was no competition to the electronic media of radio and TV at that time. So that's effectively a significant tax cut. Those things together put Australian media organisations on a much better footing to be able to compete with the global giants. Also, as part of media reform we commissioned the ACCC to undertake a world-leading inquiry into the influence and the power of digital platforms. Mr Sims has handed down his interim report and it's been recognised as being groundbreaking. It covers issues from privacy to the effect of the current market on journalism, the advertising power and market power of particular entities and competition issues. It's a very wide-ranging report. They're some of the significant things we've done in terms of media reform.

We've also made significant reforms to copyright legislation. We have improved access for educational institutions and people with disabilities. We have also had two tranches of site-blocking legislation to protect Australian creatives. Also, in the broader media environment, we've established the first Office of the eSafety Commissioner. We've also legislated the world's first child cyber-bullying material takedown regime to give the eSafety Commissioner the powers to direct social media organisations to take down material. That also provides them with the capacity to fine organisations and individuals. We've also introduced both civil and criminal penalties for the non-consensual sharing of intimate images—again, powers to the Office of the eSafety Commissioner.

I've also announced and released a draft charter for digital platforms to make clear on behalf of the Australian community the government's expectations of platforms and the sorts of things they need to do, such as earlier identification of offensive material, better use of moderators, better use of artificial intelligence to this end and being more transparent in terms of the complaints that they've received and the actions that they're taking. So, Senator Chisholm, they're a few of the things that we've done in relation to the media and the online environment.

Senator CHISHOLM: Doesn't that preliminary ACCC inquiry recommend a review of the media regulatory frameworks?

Senator Fifield: Mr Sims has a range of observations. At the moment, we need to wait for Mr Sims's final report to see what his recommendations are. His interim report is produced for the purpose of eliciting comment and feedback. I should also point out that Mr Sims was a very strong voice in favour of the media reforms that this government has undertaken.

Senator CHISHOLM: Sure, but doesn't that make a mockery of your claim that the laws that you changed in 2017 were the most significant reforms in a generation, when only a year later the ACCC are saying they need to be changed again?

Senator Fifield: No, Senator. This is a fast-evolving area and I've never said that our media reforms were the endpoint when it came to reform. But I do observe that the Australian Labor Party opposed those reforms.

Senator CHISHOLM: I didn't ask about the Labor Party; I was asking about the ACCC preliminary report.
Senator Fifield: It's important to provide context when it comes to the overall environment of what is conducive to facilitating reform and those things that might be impediments.

Senator CAMERON: Minister, given you're responsible for oversight of the ABC, is it appropriate that an ABC presenter could have been engaged in criminal activity?

Senator Fifield: Senator, it's not appropriate for anyone to be engaged in criminal activity regardless of their workplace.

Senator CAMERON: Are you aware that Minister Keenan's former media adviser is now presenting ABC News Overnight in Western Australia?

Senator Fifield: I don't have a good or close understanding of the ABC's evening presenters around Australia.

Senator CAMERON: That's unusual for a Liberal politician. They usually know exactly what's going on.

Senator Fifield: My consumption habits of the ABC usually relate to listening to early AM on Radio National, then AM again on ABC Local—

Senator CAMERON: Let's stick to Western Australia and the night show. Mr Tetlow has been accused of providing the TV stations with advice about an impending Federal Police investigation into the AWU. That was by a Mr De Garis, who was Senator Cash's adviser. Under oath he has indicated that it was both he and Mr Tetlow who advised the media in relation to the leak of the impending Federal Police raid on the AWU. Given that this is a very serious allegation, given that this is an issue that is criminal in its intent, and given that the Federal Police have said that it put the Federal Police in danger, do you believe that Mr Tetlow should continue to operate in the ABC while this is being clarified and his position made clear as to whether he was engaged in this criminal activity or not?

Senator Fifield: Thank you, Senator. I'm not aware of the individual to which you refer or his employment circumstances, but let me just make the general observation that employment and staffing matters at the ABC are entirely matters for the ABC management and that, as the minister for communications, I have no role when it comes to the ABC's staffing arrangements. That is a point that has been one that I have always observed, but it's also a point that has been repeatedly made to me by colleagues in this forum.

Senator CAMERON: So you're not concerned that Mr Tetlow may have been engaged in criminal activity and is a presenter on the ABC? Do you say that's got nothing to do with you?

Senator Fifield: The ABC has legislated independence in operational matters, and matters of employment of individuals in that organisation are matters for the ABC management.

Senator CAMERON: Do you have a personal view in relation to anyone who is under serious investigation in relation to criminal activity being engaged at the ABC as a presenter?

Senator Fifield: As I say, I don't know of the individual you're referring to and I don't know of their employment circumstances. The ABC as an organisation has responsibility for its staff.

Senator CAMERON: I would've raised this directly with the ABC, but I understand the ABC are not appearing at estimates this time around. Is that correct?

Senator Fifield: That's correct, Senator.
CHAIR: They'll be available on 6 March, in the spillover week, for personal reasons.

Senator CAMERON: I don't think this can wait until 6 March, Minister. Do you believe it would be appropriate for you to raise this issue directly with the ABC so that we can get some clarification before 6 March as to how Mr Tetlow was engaged and why he is still presenting on the ABC when Senator Cash's media adviser has said that both he and Mr Tetlow were engaged in what is criminal activity?

Senator Fifield: Senator, given the ABC aren't appearing for these estimates, what we can undertake to do is to take your questions on notice.

Senator CAMERON: Okay. Can you take on notice the question as to how Mr Tetlow became employed and who directly employed Mr Tetlow? Can you also take on notice the question of whether this position was advertised generally? Could you also take on notice whether Mr Keenan approached the ABC in relation to the employment of Mr Tetlow and whether the proper procedures were followed by the ABC in relation to the engagement of Mr Tetlow?

Senator Fifield: We'll take those questions on notice and convey them to the ABC. As is the practice, when the ABC reply, the advice that is provided is that of the ABC unmoderated.

Senator CAMERON: I may write to the ABC to draw their attention to this part of Senate estimates so that they are in a position to respond on 6 March—is it 6 March?

CHAIR: Yes, that's correct—in the afternoon, in Sydney.

Senator CAMERON: Senator URQUHART: I just want to turn to some questions around the National Relay Service and their audio description. Understanding this is a service used by deaf and hearing-impaired Australians to make and receive telephone calls as well as to access emergency services through text relay, Minister, in a press release dated 23 June 2017 you said that:

… the Government will go to tender for the continued provision of the NRS, ensuring that the existing total annual funding allocation of $22 million (including GST) remains in place.

Can you confirm what the NRS funding allocation was in both 2017 and 2018?

Senator Fifield: I'll ask officers to get the relevant figures for you.

Mr Mrdak: We can assist, Senator. I will ask Ms Silleri to give you that detail.

Ms Silleri: The funding allocation for the National Relay Service is $22 million each year.

Senator URQUHART: $22 million each year. So that was for 2017?

Ms Silleri: It's for that time.

Senator URQUHART: Minister, have you given any undertakings to the telecommunications industry, which pays the levy which funds the NRS, that the government will deliver an NRS tender outcome at a capped amount of $22 million per annum?

Senator Fifield: That is the current annual funding allocation.

Senator URQUHART: Yes, but have you given undertakings to the industry?

Senator Fifield: I wouldn't have personally communicated with the industry. Those dealings would be between the department and relevant parties.

Senator URQUHART: Has that been done?
Ms Silleri: Not so much a commitment, but there is an understanding that that is the funding allocation for the National Relay Service.

Senator URQUHART: Okay—so they understand that. What did the NRS actually cost in those years? You've allocated $22 million, but what is the actual cost?

Ms Silleri: Which years were you interested in, Senator?


Ms Silleri: In 2017-18 it cost $29.8 million for the Relay Service and $1.3 million for the outreach service, which is a total of $31.2 million.

Senator URQUHART: And for 2018?

Ms Silleri: They're the latest figures we have at the moment—

Senator URQUHART: The same?

Ms Silleri: They're the latest figures we have at the moment.

Senator URQUHART: That's it—right. What about 2017?

Ms Silleri: In the 2016-17 financial year it was $28 million for the Relay Service and $4.2 million for the outreach service, which is a total of $32.2 million.

Senator URQUHART: Prior to the government arriving at the position in June 2017, had the department tested the market's ability to deliver that outcome?

Ms Silleri: The funding allocation for the National Relay Service was set in 2012, when it was first contracted as part of the arrangements which saw the creation of an organisation called TUSMA. There was a request for tender at that point with the understanding that the Relay Service would be delivered for $22 million. That funding allocation has not changed throughout that time.

Senator URQUHART: But now it costs $31 million.

Ms Silleri: It did.

Senator URQUHART: Was there any analysis or advice that gave you confidence that the service could be delivered for $22 million per annum given the growing cost of the service?

Ms Silleri: Yes, we do have an understanding that it could be delivered for $22 million.

Senator URQUHART: But it now costs $31 million?

Ms Silleri: It did last year, yes.

Senator URQUHART: Were the growing costs primarily driven by caption telephony?

Ms Silleri: They were, Senator.

Senator URQUHART: What challenges do the licensing arrangements for caption telephony pose for this process?

Ms Silleri: That matter is a matter that is currently under consideration as part of a procurement exercise, so I'm not really able to talk about it.

Senator URQUHART: So you don't know what the challenges are?

Ms Silleri: There are many challenges, but it's not something we are able to talk about at the moment.
Senator URQUHART: Why is that?
Ms Silleri: Because it's part of a current procurement exercise.

Senator URQUHART: The NRS contracts were due to expire in January 2019. Why has there been no public update? Can you tell me where things are up to? Has the contract been extended?
Ms Silleri: We extended the contracts and there was an announcement made to the community that the contracts were extended for 12 months until 31 January 2020. The department is currently investigating and exploring options to ensure the continuity of the service post that date.

Senator URQUHART: So it's been extended to 2020?
Ms Silleri: Correct.

Senator URQUHART: When was that announcement made?
Ms Silleri: That was in mid-December.

Senator URQUHART: On how many occasions have the NRS contracts now been extended?
Ms Silleri: Twice.

Senator URQUHART: What was the outcome of the tender process? Presumably all bids were judged to be unacceptable.
Ms Silleri: The tender process failed to deliver a value-for-money proposition.

Senator URQUHART: Were the bids to the tender judged unacceptable because no provider was willing or able to deliver a satisfactory service for $22 million per annum?
Ms Silleri: I'm not able to talk in that level of detail, but we were unable to deliver a value for money proposition.

Senator URQUHART: Right. So you couldn't deliver value for money, you've only got $22 million. Would it be fair to say that nobody could deliver it for that?
Ms Silleri: There was no value for money for the Commonwealth.

Senator URQUHART: Minister, has your department asked you to revisit the $22 million funding cap announced by the government or does that remain the position?
Senator Fifield: I don't think that I can speak to that given that there is a procurement process under way, unless officers feel that there is anything additional that they can add. I am always very careful when there is a procurement—

Senator URQUHART: So you cannot tell me whether you've asked the department to revisit the cap?
Senator Fifield: I'm just saying we have to be very careful, when there's a procurement process under way, as to what commentary the department or the minister makes.

Senator URQUHART: If an acceptable offer was received from a new provider, what implications does that have for caption telephony users?
Ms Silleri: Without knowing what the offer was and the substance of the offer, I'm unable to answer that. Caption telephony is able to be delivered by a variety of means and there are a variety of organisations which have the capability to deliver it.
Senator URQUHART: In the previous session of Senate estimates the department said it had the ability to extend the contracts. Has the department subsequently received legal advice or legal opinions that the Commonwealth did not have the discretionary ability to extend those contracts?

Ms Silleri: Not to my knowledge.

Senator URQUHART: Does this mean that the current supplier could actually refuse the extension of the service delivery contract at their discretion?

Ms Silleri: I would have to seek advice on that question.

Senator URQUHART: Is anyone else able to help, Mr Mrdak?

Mr Mrdak: No, Senator. We have the responsible officers at the table and Ms Silleri's answer is as far as we can say at this stage.

Senator URQUHART: Mr Mrdak, if the current supplier refused to extend the contracts, what contingency arrangements are in place?

Mr Mrdak: I think as Ms Silleri has indicated, we are working through alternative options with a number of potential providers at the moment. As we look for a sustainable long-term service, we want to maintain the high level of service, but we also want to ensure that the Commonwealth is achieving value for money both in product and also in the cost of that provision.

Senator URQUHART: We understand that, in the most recent contract extension, a clause has been negotiated such that the Commonwealth is unable to extend contracts unless the negotiations begin nine months in advance. Is this true?

Ms Silleri: There is a clause around the ability to commence transition at that period. But there are other mechanisms available to the Commonwealth.

Senator URQUHART: So there is no clause that says that contracts have to be negotiated or begin nine months in advance?

Ms Silleri: There are clauses around transition, but I'd like to take that specific reference you make on notice.

Senator URQUHART: Okay. Does that mean that the negotiations have to commence potentially during a caretaker?

Mr Mrdak: Discussions are now under way. Depending on the outcome of current work under way, that may continue through a caretaker process, and it is not unusual that, if required, the department would continue any negotiations on such a contract through a caretaker period.

Senator URQUHART: Okay. What are the other mechanisms that you talk about?

Ms Silleri: As Mr Mrdak said, we're exploring a number of other options to deliver the service post-January 2020.

Senator URQUHART: What are those?

Ms Silleri: I'm not able to discuss those.

Senator URQUHART: What consultation will occur with the deaf, deaf-blind, hearing- and speech-impaired communities prior to finalising the outcome of the NRS tender process?
Ms Silleri: I think as I mentioned at the last estimates, it's not appropriate to have consultation as part of a procurement exercise. We have consulted with the community in the past. We have—as I think I mentioned to you last time, we are in contact with the community regularly discussing issues of concern. That's the approach we're taking. It's not generally that consultation as part of a procurement exercise.

Senator URQUHART: So have the community and NRS users been consulted on the information that is now available online through the department's new Accesshub?

Ms Silleri: Yes, there's been ongoing discussion around that.

Senator URQUHART: How has that consultation occurred?

Ms Silleri: It's been informal, it's been direct and it's been through the existing outreach provider, as we made a transition from the website that was hosted by them to the website that is now hosted by the department.

Senator URQUHART: What's the feedback that you've had from the deaf, deaf-blind, hearing- and speech-impaired communities regarding the information that's available through that Accesshub?

Ms Silleri: Accesshub was launched on 6 February. To date we have received two, I guess, negative comments. I think people—there were some videos that were available on the old website which we haven't been able to transfer to the new website yet, although we do have those plans in train. The reason we couldn't bring the old videos over was because they were outdated. They were focused on video relay calls that used an outdated version of Skype. So we're just making sure that all of the information that was on the previous website that we've brought to our new website is as current and up to date as possible. There has been some confusion, I guess, about just directing traffic. That's been under 10 people.

Senator URQUHART: Given that the NRS is the means through which Auslan users can make contact with the broader community and the previous NRS website provided information in Auslan, will Auslan translation videos be made available on the Accesshub website?

Ms Silleri: Yes, they will. They are currently being produced.

Senator URQUHART: What training is available for existing NRS users in relation to the Accesshub to particularly support them to continue to access the services that they rely on?

Ms Silleri: Accesshub provides guidance about how to continue to use the service as they did through the previous website, so it steps through on how to do that. If there are any difficulties that are experienced by the users, they can come directly to the department or through to the NRS helpdesk.

Senator URQUHART: Has the department undertaken website user testing with existing NRS users to ensure that the Accesshub meets the needs of the community?

Ms Silleri: That was undertaken with the existing outreach provider. There was a lot of testing over several months through the existing outreach provider.

Senator URQUHART: Outreach services have been scaled back. Are there now no face-to-face training services available for new users? Given this lack of outreach and training,
how will new users of the NRS be able to get the essential skills that they need to become confident users of the NRS?

Ms Silleri: We consider that the information that's on the website—on Accesshub—has been the primary means by which people have been trained in the past. The actual face-to-face sessions were fairly sparsely attended. The use of the online tutorials has been the primary way in which training has occurred. But we are also, as I think I mentioned last time, exploring a number of different trials and, I guess, focus group approaches that we may take in future. We haven't done that as yet, but we're looking to see what feedback we get through Accesshub and where the gaps are, and then working through those.

Senator URQUHART: Can I just go back to the negotiations and the tender process. If the negotiations on extending the current contract do not commence before April 2019, does that void the ability of the Commonwealth to exercise the right to extend the contracts again?

Ms Silleri: I think I'd like to take that on notice, Senator. It's a legal question and I'd need to take advice on it.

Senator URQUHART: Are you able to get an answer back to us today?

Mr Mrdak: We'll endeavour to, Senator. But I think that, as Ms Silleri has indicated, we actively now have work under way. The clause you referred to is around transition arrangements, should there be an alternative provider. We're not at that stage of the consideration at this point.

Senator URQUHART: What are the next steps in terms of the tender process?

Ms Silleri: We are working through a number of options and we are very committed to ensuring we will deliver the service post-January 2020.

Senator URQUHART: Minister, I take it that you would not have any objections to extending the confidential briefing to Labor in relation to this matter.

Senator Fifield: I'm relaxed with that. I will be guided by officers in terms of probity matters with the procurement, but I have no objections.

Senator URQUHART: The officer's indicating that she's happy to do that.

Ms Silleri: I'd be happy to within the extent I can within probity arrangements, but yes.

Senator Fifield: That's the caveat, Senator.

Senator URQUHART: In relation to audio description services for blind Australians, Minister, what have you done to find a way to implement audio description for blind and low-vision Australians?

Senator Fifield: We canvassed these issues with Senator O'Neill probably about 45 minutes ago.

Senator URQUHART: Okay. Since you've received the report of the working group, have you been in contact with representatives of the broadcasting industry to discuss implementation?

Senator Fifield: There have no doubt been discussions between the department and the broadcasting industry, but, as I indicated earlier, I'm going to be writing to the public broadcasters and the commercial broadcasters seeking their advice as to how audio description could be implemented and the range of services that it could appropriately cover.
Senator URQUHART: So you're going to be writing to them? You haven't done that yet?

Senator Fifield: That's what I've indicated, Senator.

Senator URQUHART: So you haven't got any responses back in relation to the implementation?

Senator Fifield: As I've said, I will be communicating with the public broadcasters and the commercial broadcasters. The Audio Description Working Group's work is something that the broadcasters were involved with. It was something to assist them in examining this area. But I'll be seeking propositions from them as to how they might move forward.

Senator URQUHART: Just in relation to that working group's report, what specific actions has the department taken to progress the implementation of audio description in Australia?

Senator Fifield: The department undertook the Audio Description Working Group exercise and the department will be working with the public broadcasters in the wake of my correspondence to them to assist them with the knowledge that they have obtained through the working group process.

Senator URQUHART: Does anyone from the department want to add anything to that in relation to what work you've done?

Ms Silleri: Nothing to add to that, Senator.

Senator HANSON-YOUNG: I want to ask some questions about where the replacement of the chair of the ABC Board is up to. Minister, is there a timeframe on the appointment of the new chair?

Senator Fifield: On the occasion of the vacancy of the chair, colleagues might recall that we appointed Dr Kirstin Ferguson to the position of deputy chair. The act says that, where there is a vacancy of a chair, the deputy chair shall be the acting chair. We also, at that time or shortly thereafter, initiated the independent nomination panel process. The independent nomination panel have concluded their work and they have provided their report to government. It will be a decision of government, making a recommendation to the Governor-General, as to the next chair.

Senator HANSON-YOUNG: What's the time frame on that?

Senator Fifield: It's in the nature of these things that announcements are made once decisions have been taken. We don't pre-empt or comment on the timing of matters going to the Governor-General.

Senator HANSON-YOUNG: So the independent nomination panel has made a decision—have they made a decision or have they put forward options to you?

Senator Fifield: The independent nomination panel is not a decision-making body. The independent nomination panel puts forward a list of potential names.

Senator HANSON-YOUNG: So you've got a list of names that you're looking at. What are you going to do to ensure that the perception of independence is front and centre here, given the saga we've seen with the former chairperson and managing director? The last thing, of course, Australian taxpayers would want is the idea that the Liberal Party are just choosing one of their mates.
Senator Fifield: The government will make an appropriate recommendation to the Governor-General.

Senator HANSON-YOUNG: How are you ensuring that this decision is actually independent and we're not just getting a Liberal Party lackey?

Senator Fifield: The government has not appointed people to the board who are not appropriately qualified, and the person who is recommended to the Governor-General to be chair of the ABC will be an appropriately qualified person.

Senator HANSON-YOUNG: How do we avoid the problem we saw with Mr Milne, who clearly thought his job was to do the bidding of the Liberal Party rather than the bidding of the public broadcaster?

Senator Fifield: The government will make an appropriate recommendation to the Governor-General.

Senator HANSON-YOUNG: Minister, have you consulted with the Leader of the Opposition or any other political party leaders in relation to your decision as to who you will put forward to the Governor-General?

Senator Fifield: I should point out that, whereas regular board positions on the ABC go forward in my name, under the ABC Act the nomination of the chair goes forward in the name of the Prime Minister. The ABC Act also requires that the Leader of the Opposition be consulted in relation to the position of ABC chair.

Senator HANSON-YOUNG: Has the Leader of the Opposition been consulted?

Senator Fifield: The government has not taken a decision in relation to the ABC chair as yet, so that matter will be something that will go forward to the Governor-General at the appropriate time and the government will, as always, follow the requirements of the act.

Senator HANSON-YOUNG: So the Leader of the Opposition hasn't yet been consulted? What will consultation look like?

Senator Fifield: Consultation, I imagine, will follow the same pattern that it has previously. But when it comes to that, given, as I say, this is a matter that goes forward in the name of the Prime Minister, I have probably taken it as far as I can. Any further questions in relation to that are probably most appropriately matters for PM&C estimates.

Senator HANSON-YOUNG: Will the government—is the government committed to consulting or is the government simply going to inform?

Senator Fifield: The government will follow the requirements of the act.

Senator HANSON-YOUNG: I'm asking—the act says the Leader of the Opposition needs to be consulted. I still am not clear as to what 'consulted' means. Is it simply telling or is it asking, discussing and negotiating?

Senator Fifield: The government will follow the act and will follow past practice.

Senator HANSON-YOUNG: Are you concerned that the appointment of an ABC chair at this point so close to the federal election will be seen as the Liberal Party putting in their woman or their man?

Senator Fifield: There is a vacancy, the legislative process is being followed and an appointment will be made according to the act.
Senator HANSON-YOUNG: Minister, have you had conversations with the Prime Minister in relation to removing the risk of political interference or the perception of political interference with the appointment of a new chair and indeed perhaps new members of the board?

Senator Fifield: The Prime Minister and I are confident in the processes of government.

Senator HANSON-YOUNG: So you don't believe that there is a risk of perception of political interference?

Senator Fifield: There has been no political interference by this government and there won't be.

Senator HANSON-YOUNG: Has there been any discussion, Mr Mrdak, with you and your department or in advice or briefings to the minister about changing the board appointment processes?

Mr Mrdak: No, Senator.

Senator HANSON-YOUNG: Has your department been asked to consider at all any changes in relation to the appointment of the chairperson?

Mr Mrdak: No, Senator. The process is as per the act, as the minister has indicated.

Senator HANSON-YOUNG: Mr Mrdak, what do you consider to be consultation as required under the act?

Senator Fifield: I'm happy for Mr Mrdak to—

Senator HANSON-YOUNG: I am asking for the department's understanding.

Senator Fifield: I'm happy for Mr Mrdak to add, but the act requires that there be consultation. There will be—the provisions of the act will be accorded to, as has been past practice.

Mr Mrdak: I can only reiterate that consultation has a broad range of meanings and that ultimately it'd a judgement for the Prime Minister as to the form that takes.

Senator HANSON-YOUNG: In the past, in board appointments previous, has this consultation effectively just been an inform—a show and tell?

Senator Fifield: The provision in the act for consultation only relates to the position of chair. It doesn't relate to other board positions.

Senator HANSON-YOUNG: Yes—in relation to the position of chair. What has been the practice in the past?

Mr Mrdak: My understanding is that the past practice has been that the Prime Minister has made contact with the Leader of the Opposition and advised them of the government's intention. I'm not aware as to whether it'd provide an opportunity for the Leader of the Opposition to suggest alternatives, but it simply was to advise the intention of the government to appoint that chair.

Senator HANSON-YOUNG: Thank you. Minister, is it important for you and your government to have agreement from the other sides of politics as to who should be the ABC chair?

Senator Fifield: The act requires the Leader of the Opposition to be consulted.
Senator HANSON-YOUNG: I know. I've asked—

Senator Fifield: Obviously, the government of the day cannot determine the thinking of the Leader of the Opposition, but there is a legislative requirement to be consulted and that will occur.

Senator HANSON-YOUNG: Are you considering—is it your view, Minister, that the appointment of the chair should be of a person of which there is agreement from all sides of politics?

Senator Fifield: Senator, I can't determine—

Senator HANSON-YOUNG: I'm asking you whether that is important to you and whether that is something that you wish to achieve.

Senator Fifield: Senator, it's beyond the control of government to compel the views of other parties.

Senator HANSON-YOUNG: Minister, would you not appoint an ABC chair if that person was opposed by the Leader of the Opposition?

Senator Fifield: I'm not going to deal with hypothetical scenarios. All I can say—

Senator HANSON-YOUNG: Well, you haven't been able to explain to me what consultation is. You're now refusing to give me an understanding of whether you think agreement is important. It seems as though it's simply inform. It'll be the mate pick by the Liberal Party and that's it.

CHAIR: Minister, you were saying?

Senator Fifield: Thank you, Chair. The provisions of the ABC Act will be fully complied with.

Senator HANSON-YOUNG: Minister, will this be a decision that is made prior to the parliament sitting again in April? Will we know by the time the parliament sits?

Senator Fifield: It's standard practice, I think, of all parties in government to not speak to the time frames in which things may go to the Governor-General for consideration.

Senator HANSON-YOUNG: Mr Mrdak, has your department told and informed any stakeholders as to when this decision will be made?

Mr Mrdak: No, Senator. The matter is with the Prime Minister.

Senator HANSON-YOUNG: Minister, have you informed any stakeholders as to when the decision would be expected?

Senator Fifield: No, because, as I say, we don't comment or speculate on when matters may go before the Governor-General.

Senator HANSON-YOUNG: So rumours that it would be made in the next week are false?

Senator Fifield: There's always speculation in relation to appointments.

Senator HANSON-YOUNG: Rumours that you have informed stakeholders that the decision will be made in the next week are false?

Senator Fifield: I have conveyed nothing in relation to timing to stakeholders.
Senator HANSON-YOUNG: Just to confirm, has a decision been made and is it waiting for a sign-off from the Prime Minister? Have you put your suggestions to him?

Senator Fifield: These are subjects for decision by government and when government has—

Senator HANSON-YOUNG: That's not the question I asked.

Senator Fifield: When government has made a decision and when the Governor-General has approved it, things will be announced.

Senator HANSON-YOUNG: Have you advised the Prime Minister of the person that should be selected?

Senator Fifield: As I indicated, the act indicates that this is a matter for—

Senator HANSON-YOUNG: I know—that has not been my question.

Senator Fifield: This is a matter for the Prime Minister.

Senator HANSON-YOUNG: Thank you, Chair.

Senator KENEALLY: Minister, in a similar vein to the questions you were just being asked by Senator Hanson-Young regarding the new chairperson of the ABC, has the Prime Minister canvassed any candidates with you?

Senator Fifield: This is a matter for the Prime Minister.

Senator HANSON-YOUNG: Thank you, Chair.

Senator KENEALLY: Minister, in a similar vein to the questions you were just being asked by Senator Hanson-Young regarding the new chairperson of the ABC, has the Prime Minister canvassed any candidates with you?

Senator Fifield: Senator, I don't talk to the internal deliberations of government in relation to appointments.

Senator KENEALLY: So you can neither confirm nor deny if you've had any conversations with the Prime Minister about potential candidates for the ABC board—or chairperson I should say?

Senator Fifield: It's usual for prime ministers and ministers to talk in relation to such matters, but I'm not going to comment further in relation to the internal processes of government when it comes to appointments.

Senator KENEALLY: I'm guessing you're not going to tell me if a preferred candidate has been selected by the Prime Minister then?

Senator Fifield: I'm not going to talk about internal processes of government in relation to appointments—as is the practice of successive governments.

Senator KENEALLY: I may come back to some questions regarding the Leader of the Opposition, noting some of the questions asked by Senator Hanson-Young, but let me move on for a moment while we have some time here. Minister, I do understand that the nomination panel supplied the Prime Minister with a shortlist of candidates for appointment as the new chairperson on 16 January. Is that correct?

Senator Fifield: I will ask officers to confirm the date.

Mr Mrdak: Yes, Senator—the report of the independent panel was provided to the Prime Minister on 16 January.

Senator KENEALLY: Thank you. Was that shortlist supplied by Korn Ferry?

Mr Mrdak: No, the shortlist was provided by the independent panel. Korn Ferry was the firm that was engaged to provide assistance to the panel, but the report is of the independent panel.
Senator KENEALLY: So that we're clear, the report is of the panel and they were supported in that work by the recruitment firm Korn Ferry?

Mr Mrdak: That's correct, Senator.

Senator KENEALLY: If we can stick with Korn Ferry for a moment, Mr Mrdak, in response to questions on notice 2 and 31 on 23 October 2018, the department confirmed that Korn Ferry disclosed that Mr Robert Webster would be involved in the recruitment process and that he'd served as a minister in New South Wales government for seven years.

Mr Mrdak: That's correct.

Senator KENEALLY: Was Korn Ferry required to disclose any potential conflicts of interest in preparing paperwork for the tender? I'm presuming that Mr Webster here disclosed his previous role as a minister in the New South Wales government as part of this biography, skills and qualifications. So the question I'm asking is: in addition to that, was there any requirement for Korn Ferry to disclose any potential conflicts of interest?

Mr Mrdak: Certainly in relation to any tender of this nature we ask them to identify principals who would be involved in the work. That's where his CV was identified. Certainly in tendering for any such work contractors are asked to identify any conflicts of interest as they would with any tender or procurement that we undertake, yes.

Senator KENEALLY: In that tender process, then, did Mr Webster disclose his service as a minister in the New South Wales Liberal government in that section of the paperwork or did he disclose it just as part of his qualifications and previous experience?

Mr Mrdak: I think from recollection it was identified as part of—as one of the principals or people at the firm who would be working or who potentially would work on this role.

Senator KENEALLY: I understand that he was identified as a person who would work on the role. My question is: if we take your answers to the questions on notice that Korn Ferry disclosed that Mr Webster would be involved in the recruitment process and that he served as a minister in New South Wales government, was that disclosed as a potential conflict of interest?

Mr Mrdak: Not as a potential conflict of interest I don't believe. I'll refer to my officers, but I think he was identified as one of the principals who could be involved in the search.

Mr Eccles: It was in his biography which accompanied the bid.

Senator KENEALLY: Thank you. In our last estimates we established that Mr Webster has donated significant sums to the Liberal Party of Australia—$14,400 in 2016 and $15,375 in 2017. Did Mr Webster disclose his membership of the Liberal Party or these donations to the Liberal Party as a potential conflict of interest in his paperwork for the tender?

Mr Mrdak: I don't believe there was any reference to the donations made. And, as Mr Eccles and I have indicated previously, his CV, which included membership of the New South Wales parliament as a Liberal member—

Senator KENEALLY: Hang on there. Mr Webster was a member of the New South Wales parliament as a Nationals member.

Mr Mrdak: Sorry—

Senator KENEALLY: He joined the Liberal Party in 1996.
Mr Mrdak: The CV simply referenced his role as a New South Wales member of parliament and as a minister in the New South Wales parliament. It was my commentary in relation to that. I do apologise. The biography simply identified his term as a member of the New South Wales parliament and as a minister in a New South Wales government.

Senator KENEALLY: In response to my question, did he disclose his membership of the Liberal Party or his donations to the Liberal Party as a potential conflict of interest in the tender process? Your recollection of that is that it was not disclosed?

Mr Eccles: I don't believe so. I think it was his background as a former parliamentarian that featured in his biography. But we would need to take it on notice and review the submission that Korn Ferry put in to be able to answer definitively.

Senator KENEALLY: I would appreciate that very much, Mr Eccles. If Mr Webster did not disclose his membership of the Liberal Party or his status as a donor to the Liberal Party in the tender documentation, has Korn Ferry failed to disclose a conflict of interest? Is that the type of potential conflict of interest that the department should be aware of?

Mr Mrdak: I don't believe so in the sense that he's identified as part of his CV his former role as a member of parliament. There are other registers—

Senator KENEALLY: As we've established, Mr Mrdak, he was not a Liberal member of parliament—he was a Nationals member of parliament. You've also said that he's disclosed that he was a member of a New South Wales parliament. He does not seem to have disclosed his current party affiliation or his current party donations.

Mr Mrdak: Not to my recollection, Senator. As I say, there are other transparency mechanisms around donations that are available.

Senator KENEALLY: Does the department check those when they're going through tenders?

Mr Mrdak: We did not.

Senator KENEALLY: Is it possible, if Mr Webster did not disclose his role as a Liberal Party member and his status as a donor to the Liberal Party, that he has potentially breached the requirement to disclose relevant conflicts of interest in relation to this tender?

Mr Mrdak: I'd have to take that on notice, but I'll ask if my colleagues have any further advice in relation to the matter.

Mr Eccles: We can take it on notice, but, given the role of Korn Ferry in supporting the selection panel, it was a report that the selection panel signed off on having been satisfied as to the appropriateness of the process and ultimately it was the selection panel that made the recommendation to government.

Senator KENEALLY: But Mr Eccles—

Mr Eccles: It was several steps removed from a decision, if you like. But we will take on notice your question about what constitutes a conflict.

Mr Mrdak: Also, I will perhaps just further say I will also take on notice whether Mr Webster participated in this particular task by Korn Ferry—I'm not aware that he did.

Mr Eccles: He didn't play a leadership role in the process.

Senator KENEALLY: He didn't what?
Mr Eccles: He wasn't the lead for Korn Ferry in this.

Senator KENEALLY: But he was involved?

Mr Eccles: I don't know the answer to that.

Mr Mrdak: We'll check that. He was a member of the firm and was listed as part of the firm and as being available, but I’m not aware as to whether he actually took part in any of the support for this panel. I will take that on notice.

Senator KENEALLY: But he was identified in the tender as a potential—

Mr Mrdak: As potentially being available for the task. But, as to whether he took part in the task, I will need to take that on notice.

Senator KENEALLY: So we’ve established that he was identified in the tender as a potential participant in this work, that he disclosed as part of his biography that he was a member of the New South Wales parliament and a minister in the government, but we cannot confirm here today as to whether or not he disclosed his membership of the Liberal Party or his donations to the Liberal Party and we cannot confirm here today as to whether or not that would constitute a potential conflict of interest that should have been disclosed as part of the tender. Is that a fair summation of where we’re at so far?

Mr Mrdak: I think it's a fair summation to the extent that our recollection is that he did not disclose membership of the Liberal Party or donations to the Liberal Party as part of his CV and we are not in a position to give you any advice as to whether that constitutes any breach or it should have been identified to us as a conflict of interest.

Senator KENEALLY: Mr Mrdak, with respect, we are in a circumstance where we have a Senate inquiry into allegations of political interference into the ABC. The chairman of the ABC has resigned. The managing director of the ABC has resigned. There are— the reason we are trying to refill this chair position is because we had a circumstance where the previous chair, who was friends with the previous Liberal Prime Minister, is caught up in allegations of potential political interference that led to the sacking of the previous managing director. Surely the department should have been alive to the potential conflict of interest of having a former minister in a Liberal National government and a current and quite well known member of the Liberal Party engaged in this selection process. Is there a failure of the process here?

Mr Mrdak: No, not at all. The department went to tender for a firm to provide specialist search consultancy advice. Korn Ferry provided, in our view, the best value for money and assistance for that independent panel. The judgement in relation to the selection process at all times vests in the independent selection panel. I don't believe there's been a deficiency of the process in selecting this firm to assist them.

Senator KENEALLY: But again we have a circumstance where this government, according to evidence given by current members of the ABC board who are appearing before the ABC Senate inquiry that is under way, did not go through the nomination panel process—that is, they were approached directly by the minister or members of the Liberal government to put their nominations forward. So we have a circumstance again where the very appointment process to the board looks and risks being politicised. So it is extraordinary to me that the membership of Mr Webster in the Liberal Party and his donations, which are a matter of public record and were apparently or it seems were likely not disclosed—you knew all of this. Somehow either he has failed to disclose it or it has failed to be considered or even
understood by the department in awarding this tender. You've taken a number of things on notice and I do appreciate that. Can I ask you this: is there scope to terminate the contract with Korn Ferry if there has been a failure on the part of Mr Webster to disclose relevant conflicts of interest?

Mr Mrdak: I'd have to look at the contract in relation to the terms on which the termination could take place. I would have to look at that. But I'm not too sure based on what you've said today that the grounds would be such that we would see that conflict of interest pertain to any termination of the contract.

Senator KENEALLY: Mr Mrdak, according to the AusTender website, the original contract for the Korn Ferry recruitment agency for ABC and SBS was $163,000. That was published on 8 November 2018.

Mr Mrdak: That's correct, Senator. That's up to—and that's a multi-year contract.

Senator KENEALLY: What was the amount of $15,000 on 7 January 2019 for? Has the department split this engagement with Korn Ferry into multiple contracts?

Mr Eccles: No, Senator. That extra money, and Mr Makin can confirm, was to cover unexpected additional costs relating to background checks on applicants.

Senator KENEALLY: For the ABC chair position?

Mr Eccles: That's right.

Senator KENEALLY: Unexpected costs that Korn Ferry had not identified in its—

Mr Eccles: That the nomination panel requires in order to provide sage advice to government.

CHAIR: Thank you—we will break now.

Proceedings suspended from 10:59 to 11:15

Senator KENEALLY: Before the break, we had just canvassed that an additional $15,000 was paid to Korn Ferry on 7 January 2019 for, as I believe you termed it, unexpected costs relating to background checks?

Mr Eccles: That's right.

Senator KENEALLY: And they were checks that are required by the nomination panel?

Mr Eccles: Or were valued by the nomination panel. I will check.

Senator KENEALLY: So they were valued. Are they an additional thing the nomination panel decided to do?

Mr Eccles: I would need to check with the nomination panel as to the requirement behind that additional step.

Senator KENEALLY: I suppose what I'm trying to understand is, were they part of the original tender? How did we come to a circumstance where—

Mr Eccles: Clearly not part of the original tender if there was an agreement that we would enter into a contract variation to allow for that extra portion of funding to be provided. That's why it was reflected in AusTender accordingly.

Mr Mrdak: I should clarify, that is a contract variation. That doesn't represent funds expended. It was just a variation to provide for additional background checking over and
above what had initially been provisioned for with that contract variation. You are right. I will ask Mr Makin to give you the figures on what the contract value is, which includes the variation to provide for this additional background check, and then give you the amount that was paid. They are two quite different things. We are provisioning a contract over multiple years over potentially multiple processes, as opposed to this one process at the moment.

Senator KENEALLY: I understand that. So you entered into a contract variation of $15,000 for this particular work, to do particular background checks for the ABC board, chair—

Mr Mrdak: And any subsequent process beyond this initial chair. If there were future search processes required, this would also be available under that contract.

Senator KENEALLY: Was all of this $15,000 just for the chair process, or is it for other potential processes in the future, as you've just said?

Mr Mrdak: Over the term of the contract, if there are other processes the panel would undertake, it will provide for that as well.

Senator KENEALLY: The nomination panel is undertaking?

Mr Mrdak: That's right.

Senator KENEALLY: The nomination panel that several of the board members didn't actually go through? Correct?

Mr Mrdak: The nomination panel that is constituted as per the legislation—yes.

Senator KENEALLY: Which several of the board members have already said they didn't go through. Can we just be clear: the department can't say whether or not Mr Webster disclosed a conflict of interest, and with this high profile recruitment firm, Korn Ferry, the department did not do its own checks as to whether or not his Liberal Party membership or donors were declared; yet now you are paying Mr Webster's firm an extra $15,000 to do unexpected background checks on these board, chair applicants?

Mr Mrdak: No. Just to get the sequence, Mr Webster was identified in his CV through that process. We accepted that. I am not aware, but we will check, as to whether there was any reference to any conflict of interest in that. We are not aware, beyond his CV, that there was any reference to that. We did not undertake any further checks beyond that. We will check what role Mr Webster did or didn't play in supporting the panel on this occasion. I am not aware that he was involved with this task. To come to your last point in relation to this additional funding, it provides for additional background checking which we had not provisioned in the original contract. That does not of itself represent an additional payment to the firm.

Senator KENEALLY: It doesn't represent an additional payment to the firm? It is potentially money that they can—

Mr Mrdak: Potentially, if it is drawn down for further reference checks in future. The amount that was actually paid, which I will get Mr Makin to give you, for the task at hand is significantly less than the total contract provisioning amount at this stage.

Senator KENEALLY: Did the panel approach Korn Ferry, or did Korn Ferry approached the panel to identify that this contract variation needed to be made?
Mr Mrdak: It was made by the panel seeking further work to be undertaken. That was advised to us at the department, who are the holders of the contract.

Mr Eccles: The nomination panel required police checks and double checks. That was not part of our original scope, so provision was subsequently made to enhance the contract to take into account that extra step.

Senator KENEALLY: When did the nomination panel decide that it needed to do police checks and other things they hadn't advised in their previous advice to you? You said it wasn't part of your original scope.

Mr Makin: In previous processes they have always taken some form of background checking. In this process, Korn Ferry offered a service that was above and beyond what it had done previously. It was quite in-depth checking, and that is where the amount came in.

Senator KENEALLY: So Korn Ferry offered an additional service and the nomination panel said, 'Hey, that's actually a good idea'?

Mr Mrdak: Yes. It is part of the role of the nomination panel to undertake background checks. This is just more in depth than they've done previously.

Senator KENEALLY: I am getting some contradictory answers. I asked who initiated this variation to the contract? Was it Korn Ferry or the nomination panel?

Mr Mrdak: From our perspective, it was the panel, because we are assisting the panel.

Mr Eccles: We respond to the panel's requirements.

Senator KENEALLY: From your perspective, you don't get a request from Korn Ferry. Maybe, correct me if I'm wrong, you may not have line of sight as to whether or not Korn Ferry went to the panel or the panel went to Korn Ferry?

Mr Mrdak: That's correct.

Mr Eccles: But we respond to the panel's requirements.

Senator KENEALLY: I understand that, Mr Eccles. If we can visualise it in this way, there is Korn Ferry and the panel talking to one another, and then there is the panel and you talking to one another.

Mr Eccles: That's right.

Senator KENEALLY: From your perspective, the panel came to you and said, 'We would like to vary the contract, get this additional funding to be available'—I understand it hasn't necessarily been disbursed, but available—'so that if we want to do this additional background checking, we can'?

Mr Eccles: I think that's a fair characterisation.

Senator KENEALLY: I understand you can't answer this today, so I want to put a question on notice. Can I put to you the question as to whether or not Korn Ferry recommended this additional work, or the nomination panel decided on their own that they needed to do it?

Mr Eccles: We would need to check with the nomination panel.

Senator KENEALLY: Thank you. I am interested in this because according to the recent AEC disclosure figures, which you mentioned earlier, Mr Mrdak, there are some levels of transparency around donations. Mr Webster donated $15,375 in 2018. That is additional to the
money that he had donated which we discussed at last estimates—$14,000 in 2015 and $15,000 in 2017. We now have a disclosure by the AEC that he donated $15,375 in 2018. That is a similar sum to what this January 2019 variation represents. So I'm simply trying to understand the levels and potential conflicts of interest, the relationship to donations, the relationship to Liberal Party membership, and where requests for additional funds are originating. To be clear, you are taking on notice whether or not he disclosed his membership to the Liberal Party, whether or not he disclosed the donations that he made, and whether or not Korn Ferry initiated the request for this additional variation to the contract. Is that correct?

Mr Mrdak: Yes, Senator. We will take that on notice.

Senator KENEALLY: Returning to the pending appointment of the ABC chair, on 30 September 2018 the Leader of the Opposition, Bill Shorten, wrote to the Prime Minister requesting a bipartisan approach and stating that the opposition expects to be genuinely consulted with sufficient notice on all future ABC board appointments. Minister, do you accept that Mr Bill Shorten is simply asking for what is already required by law under the ABC Act?

Senator Fifield: The ABC Act requires that the Leader of the Opposition be consulted. It doesn't stipulate the mechanism. That is a matter for the Prime Minister of the day.

Senator KENEALLY: Yesterday Prime Minister and Cabinet confirmed in estimates that former Prime Minister Turnbull gave Mr Shorten a phone call about the appointment of Mr Justin Milne, who had been shortlisted by the nomination panel. But Prime Minister and Cabinet couldn't supply the date, and took that on notice. Do you know the date?

Senator Fifield: No. The question has been taken on notice in the appropriate estimates, which is Prime Minister and Cabinet.

Senator KENEALLY: I just thought we would ask if you knew it. Minister, on 4 October 2018 the Prime Minister responded to Mr Bill Shorten's letter requesting to be consulted. He rejected the request for a bipartisan approach to the appointment of the next ABC chair, and he did not agree or commit to provide genuine consultation with sufficient notice on all future ABC board appointments. Why won't the Liberal government support a bipartisan appointment?

Senator Fifield: We will follow the provisions of the act.

Senator KENEALLY: Given the ABC Act requires the Prime Minister to consult with the Leader of the Opposition, and in view of the recent political interference scandals at the ABC, isn't it imperative that the government and opposition work together in a bipartisan way to rebuild trust in this vital institution?

Senator Fifield: This government has not politically interfered with the ABC. This government will do as it always has done, which is follow the provisions of the act.

Senator KENEALLY: Why won't the Liberal government commit to genuine consultation with sufficient notice on ABC board appointments?

Senator Fifield: The government and the Prime Minister have indicated they will follow the provisions of the ABC Act in relation to consultation.

Senator KENEALLY: Tell us one more time, now that you have said it three times.

Senator Fifield: You have asked three times, so I have answered three times.
Senator KENEALLY: What is your understanding of the consultation that is stipulated under the ABC Act?

Senator Fifield: The ABC Act requires that the Prime Minister consult with the Leader of the Opposition prior to the appointment of the chair of the ABC.

Senator KENEALLY: Do you believe that a phone call, an email, a letter, a meeting, any of those types of consultation are inappropriate or appropriate?

Senator Fifield: It is a matter for the Prime Minister of the day to consult.

Senator KENEALLY: Three days notice? Twenty-four hours?

Senator Fifield: It is a matter for the Prime Minister of the day to consult.

Senator KENEALLY: In his letter of October 2018 to Mr Shorten, the Prime Minister says, 'The government has always followed the legislative process to make appointments to the ABC board' and 'this includes consulting with the Leader of the Opposition as required under the act in relation to the position of the chair.' Minister, do you concede that in the past the Liberal government has on a number of occasions ignored the recommendations of the nomination panel for ABC board members?

Senator Fifield: The government has always followed the provisions of the ABC legislation in relation to appointments.

Senator KENEALLY: That's not an answer to my question. Do you concede that in the past the Liberal government has ignored the recommendations of the nomination panel?

Senator Fifield: As I've indicated previously, the government on some occasions has appointed to the board of the ABC people who have been nominated by the independent panel. On other occasions the government has made appointments that have not been from the panel process and, as required in those circumstances according to the act, has tabled the reasons in the parliament.

Senator KENEALLY: Can you confirm that current board members Vanessa Guthrie and Joe Gersh were not recommended by the nomination panel?

Senator Fifield: Those were occasions where the government made a recommendation to the Governor-General and tabled a statement of reasons in the parliament as to why those appointments were made.

Senator KENEALLY: Can you confirm that the current board member Donny Walford did not even participate in the nomination panel process?

Senator Fifield: Again, that's a case where the government made a recommendation to the Governor-General and tabled a statement of reasons in the parliament for the appointment.

Senator KENEALLY: Do you think the Australian public will be satisfied if the recommendations of the nomination panel are ignored again when it comes to the appointment of the ABC chair?

Senator Fifield: There is the legislated process for the appointment of the ABC chair and that will be followed.

Senator KENEALLY: Minister, aren't the requirements of the legislated process intended to facilitate greater transparency and Parliamentary scrutiny of candidates and appointments to the ABC board? Isn't that the very function of those legislated processes?
Senator Fifield: And they provide that.

Senator KENEALLY: Except when the government ignores them.

Senator Fifield: No, the act, which was drafted by our predecessors in government, provides for appointments to the board of the ABC, apart from the nomination panel process, and in those circumstances the act requires the tabling of a statement of reasons in the parliament, which has occurred. This government has followed to the letter the process legislated by our predecessors in government.

Senator KENEALLY: Would you say you followed to the spirit as well?

Senator Fifield: All we can do is follow the provisions of the act, which we have done. The act drafted by our predecessors makes express provision for appointments with the tabling of statements of reasons.

Senator KENEALLY: On 14 January 2019, the shadow minister for communications, Michelle Rowland, requested a process briefing from the nomination panel on the process to shortlist candidates for the position of ABC chair. But, on 25 January, the Prime Minister's office refused this request, saying there's no requirement to consult on the nomination panel or the shortlist nor is there a process of engagement between the opposition and the nomination panel. It went on to say that the Prime Minister will comply with the requirements of the act and be guided by past practice. Given the ongoing inquiry into political interference at the ABC and given the concerns about the use of Korn Ferry and Mr Robert Webster's roll there as well as his clear alliance and allegiance to the Liberal Party, do you think the Australian public will be satisfied if the Prime Minister doesn't genuinely consult with the Leader of the Opposition on the appointment of the ABC chairman?

Senator Fifield: What was sought by the shadow minister in terms of a briefing by the nomination panel as to whether process was at is not something that even I, as the minister, would seek or have sought. The nomination panel go about their business independently. What the shadow minister was seeking was actually to insert herself into a process that not even the government inserts itself into.

Senator O'NEILL: Just because you don't care.

Senator Fifield: No, it's not because—

Senator O'NEILL: You're not interested in transparency,

Senator Fifield: No, through you, Chair, the nomination panel is there to go about its work independently of government. That means—

Senator O'NEILL: With a Liberal donor on board.

Senator Fifield: Chair—

CHAIR: Senator O'Neil, the minister's trying to answer.

Senator O'NEILL: It's hard to believe him, though.

CHAIR: If you allow him to answer, you can then ask further questions when it's your turn to ask questions.

Senator Fifield: I don't have sight of the work of the independent panel as it is being undertaken. That is my point. And it's not appropriate that I do have sight of that. The opposition was seeking to have something that the government doesn't have and doesn't seek
to have—and would be inappropriate to have. The way the process works is that the panel undertake their work and, once they have concluded their work, they then hand their report to the government.

Senator KENEALLY: I want to turn to the substantive questions sought by the shadow minister, which were questions she put to the Prime Minister and Cabinet in advance, over a month ago. At estimates yesterday the Department of the Prime Minister and Cabinet directed the following set of questions to you, given that the communications portfolio is running this process. What were the selection criteria for the ABC chairperson?

Mr Mrdak: Perhaps I'll ask Mr Makin to give you the details on that.

Mr Makin: I can point to the references. I don't have all of the words in front of me. Section 12A of the act gives some criteria. And then section 24W of the act allows ministers to set additional criteria through instrument, and that has occurred once, which still applies. The former minister, Minister Turnbull, made an instrument in 2013, which includes some additional selection criteria. On this occasion the minister also wrote to the nomination panel reiterating those criteria as important to this process.

Senator KENEALLY: So Minister Fifield wrote to the nomination panel reiterating former Minister Turnbull's additional criteria from 2013 as well as the criteria that were listed in the act. And Mr Fifield didn't add any additional criteria on top of those?

Mr Makin: No, there have been no other instruments made on 24W.

Senator Fifield: That's also the mechanism by which the work of the panel is initiated, is by—

Senator KENEALLY: How many applicants for the role of ABC chair were proactively contacted by Korn Ferry?

Mr Mrdak: We don't have visibility on total numbers, but we understand that the nomination panel did request Korn Ferry to go and seek nominations from a range of suitable persons. We don't have visibility of the number involved, but we understand a relatively large number of people, on the half of the panel, were sought out by Korn Ferry.

Senator KENEALLY: Do you not have visibility because the process is not concluded yet?

Mr Mrdak: No, because the process is one for the panel. Those discussions were between the panel and the search consultants who were engaged. We understand that a number of persons were approached to apply for the position.

Senator KENEALLY: To pick up on Senator O'Neill's point, when you say a large number do you have a range that that might—

Mr Mrdak: It would be in excess of 30 or more people who were encouraged I think—of that order, but I don't have exact numbers. I am just working on the basis of what we have been informally advised.

Senator KENEALLY: Will there become a time where you will know that number—that number will be available?

Mr Mrdak: Not all persons who were approached to apply applied—
Senator KENEALLY: That wasn't what I asked. I asked how many potential applicants were proactively contacted.

Mr Mrdak: As I say, we are only aware of those who actually applied and were informally advised that Korn Ferry, at the panels' request, did sound out other parties.

Senator KENEALLY: Then my question was: will there come a time when that question can be answered?

Mr Mrdak: I would have to take that on notice. I'm not aware of that. That would be a matter for the panel.

Senator KENEALLY: Do you know how many potential applicants for the role of ABC chair were proactively contacted by the nomination panel?

Mr Mrdak: No, we don't.

Senator KENEALLY: Do you know how many potential applicants for the role of ABC chair were proactively contacted by the staff of PM&C?

Mr Mrdak: No.

Senator KENEALLY: How many applications for the role of chairperson were received by Korn Ferry?

Mr Mrdak: I would have to take that on notice. We don't have the details with us.

Senator KENEALLY: How many applications for the role of chairperson were received by members of the nomination panel?

Mr Mrdak: All of the applications would have been received by Korn Ferry that would have gone to the panel.

Senator KENEALLY: So members of the panel would not have received any applications directly. They would have directed them to Korn Ferry?

Mr Mrdak: They would have directed them through the Korn Ferry process, which were supporting the panel.

Senator O'NEILL: Are you confident that that occurred in every case?

Mr Mrdak: I have no reason to think that any other process would have taken place. The panel would have operated with a single point of application process, to our understanding.

Senator KENEALLY: How did Korn Ferry know who to approach? Was it based on their own database and contacts or were they given suggestions by the nomination panel?

Mr Mrdak: Certainly in engaging Korn Ferry one of the things were looking for was a firm that would have access to a database and the like of suitable candidates. They would have utilised their own resources as a search firm, and also they would have worked with the panel to identify potentially suitable candidates.

Senator KENEALLY: Minister, did you give Korn Ferry any suggestions as to who they should approach?

Senator Fifield: I have had no contact with Korn Ferry. Korn Ferry are engaged by the department on behalf of the panel. Korn Ferry works to the panel. I have had no communication with Korn Ferry to this stage.
Senator KENEALLY: Did you have any communication with the panel? Any suggestions?

Senator Fifield: No. I made no suggestions about individuals to the panel. I wrote to the panel about the process.

Senator KENEALLY: Have you had a meeting with the panel about this?

Senator Fifield: No.

Senator KENEALLY: Any conversations with any panel members individually?

Senator Fifield: No.

Senator KENEALLY: I have asked you how many applications for the role were received by Korn Ferry. Do you know how many applications Korn Ferry forwarded to the nomination panel?

Mr Eccles: We would expect that every application was sighted by the panel.

Senator O'NEILL: Are you confident that is the case?

Mr Eccles: It runs to the very core of what a recruitment company does. Korn Ferry has a very strong track record in this space. I would absolutely expect and would be very confident, based on Korn Ferry's international reputation and track record, that they would have complied with what is clearly best practice. As an application is received, they would have bundled them up and the panel would have had a line of sight of every application.

Senator KENEALLY: Let me rephrase that question. I understand that is how recruitment firms work. They also then will be making recommendations to the panel of a shortlist.

Mr Eccles: We would need to speak with the panel to understand the dynamics. We didn't have a line of sight about the day-to-day interactions between the panel that has been charged to oversee the process and the company that was appointed to give them service.

Senator KENEALLY: Surely Korn Ferry wasn't just a postbox. They didn't just receive applications and hand them to the panel. Surely they added some value along the route.

Mr Eccles: That is their job, yes.

Senator KENEALLY: That is my question. How many applications did they recommend met the criteria and should be considered by the panel?

Mr Mrdak: We don't have that information. We can ask the question of the panel as to whether they wish to provide that information.

Senator KENEALLY: Of the total applicants, how many were denied an interview?

Mr Mrdak: I will take that on notice. The report of the panel to the Prime Minister lists all of those who applied and all of those who were interviewed. I don't have that detail with me here today.

Senator KENEALLY: Given that you don't have that detail, let me just read out: I am asking, of the total applicants how many applicants were denied an interview, offered an interview, interviewed by the nomination panel?

Mr Mrdak: We will take that on notice.
Senator KENEALLY: On what basis did the nomination panel select applicants for the written report and shortlist to the Prime Minister?

Mr Eccles: They would have taken into account the criteria that are outlined in the legislation.

Senator KENEALLY: How many candidates are there for the role of ABC chairperson recommended on the written shortlist provided to the Prime Minister?

Mr Eccles: That will be part of the question on notice.

Senator KENEALLY: Overall, what steps did the nomination panel process take to consider these candidates, and the associated timings? For example, how many times did the panel meet to consider candidates, and when?

Mr Mrdak: My understanding of the process—and again we will provide this notice—was that the panel met initially to discuss the process and then to shortlist, then interviewed the shortlisted candidates and went through the process of finalising its report.

Senator KENEALLY: So the panel did interviews.

Mr Mrdak: Yes.

Senator KENEALLY: Can I understand a bit more then, what is the value add that Korn Ferry provided?

Mr Mrdak: They effectively provided the issues we discussed. Firstly, the secretariat functions for the panel. They also provided the search capability for the panel, to sound out candidates. My understanding was that for applicants they went through the process of seeking a field, then went through the process of providing information on the applications to enable the panel to consider all the applications in both shortlisting and also support for interviews, and also finalising a report on behalf of the panel.

Senator KENEALLY: What was the total cost of the nomination panel and recruitment process for the new ABC chairperson, including the cost of the recruitment firm Korn Ferry?

Mr Eccles: It was $94,764 for Korn Ferry. I don't think we have how much in terms of sitting fees and other things like travel that was provided to the panel. But we can get that very easily.

Senator KENEALLY: Thank you very much. That's all I have.

Senator O'NEILL: I want to ask a few questions about the Pacific. It is a matter of considerable interest to a large number of Pacific Islanders in Australia and certainly to those who live in the Pacific, who have a very special relationship with this country. In January, the Prime Minister announced that the government would give $17.1 million to commercial networks to provide TV programs to the Pacific. Can the department advise which review recommended this course of action?

Mr Mrdak: This did not arise from a particular review. As we discussed with Senator Hanson-Young this morning, it arose from work that was undertaken across government as part of the government's agenda to improve its cooperative relationships across the region. It was a process coordinated across a range of departments as part of a whole-of-government exercise.

Senator O'NEILL: So it came out of the Prime Minister's office?
Mr Mrdak: It came out of a process that was undertaken across a range of portfolios.

Senator O'NEILL: Who coordinated it?

Mr Mrdak: It was coordinated by the Department of Foreign Affairs and Trade and the Prime Minister's department.

Senator O'NEILL: Was the announcement a result of a recommendation by this department?

Mr Mrdak: Not by our department.

Senator O'NEILL: Was it a result of a recommendation by another department?

Mr Mrdak: It resulted from work that was undertaken as part of the process of improving Australia's profile in the region and improving understanding of Australia in the region, but did not expressly result from a piece of advice from our department.

Senator O'NEILL: I am trying to understand which department was responsible for making the recommendation that the government acted on.

Mr Mrdak: There were a range—

Senator O'NEILL: To be clear, it is not you.

Mr Mrdak: Not in relation to this specific measure that has been announced. The department did provide advice on options for providing Australian content into the region. That was part of a broader process where a range of options were provided to government.

Senator O'NEILL: If we were to allocate the responsibility for the recommendation at the point of decision-making, which department is responsible?

Mr Mrdak: It came out of a consideration of government of options put up by a range of agencies, ours and others.

Senator O'NEILL: Do you want to name them for me?

Mr Mrdak: Agencies involved in the process included Foreign Affairs and Trade, the Prime Minister's department, Home Affairs, ourselves. They were among the agencies looking at these issues of how to ensure Australia's profile and relationships improved across the region.

Senator O'NEILL: When did the department first become aware that the Prime Minister was making this announcement?

Mr Mrdak: I would have to take that on notice. It came out of a series of decisions that were taken by government at that time, which were announced by the Prime Minister over the last month or so.

Senator O'NEILL: Did you find out about it after the Prime Minister's announcement?

Mr Mrdak: No. At the time the decision was being taken we were aware of that. The Prime Minister has subsequently made announcements of a range of measures to enhance Australia's position in the region.

Senator O'NEILL: You keep restating what you consider the purpose of it. I just want to get to the facts of the timeline. I doubt that it would be too difficult to allocate someone to find this information. What I want to know, if possible today, is when the department first became aware that the Prime Minister was making this announcement. When did the
department or the Prime Minister's office advise the Department of Foreign Affairs that the Prime Minister was making this announcement?

Mr Mrdak: We'll take that on notice.

Senator O'NEILL: If you could come back to me later.

Mr Mrdak: We'll try and do that as soon as possible.

Senator O'NEILL: Was this announcement recommended by Pacific nations?

Mr Eccles: We are not privy to the discussions that took place between the Pacific nations and other arms of government, but we had had no discussions with the Pacific nations on this matter.

Senator O'NEILL: So I don't suppose that you can name a single Pacific nation that urged the government to give this money to a commercial network?

Mr Mrdak: We were not involved with discussions directly with any other government on these matters.

Senator O'NEILL: Seeing that it does involve communications, and that is your department, can the department confirm that what Pacific nations have in fact requested is that the ABC be tasked with resuming Australian broadcasting services in the Pacific?

Mr Eccles: I'm not aware of that.

Senator O'NEILL: Would you like to give it some consideration, Mr Eccles, and take it on notice?

Mr Eccles: What is the specific question?

Senator O'NEILL: Which Pacific nations have in fact requested that the ABC be tasked with the Australian broadcasting services to the Pacific?

Mr Eccles: We will look into that. I am not aware of that.

Senator O'NEILL: If you could have a good look, that would be great. Can the department confirm that it is correct that even Free TV Australia, the peak body for the network, has advised that it did not seek this money, and the Free TV Australia chief, Bridget Fair, has told The Guardian: I don't think there is any benefit to the industry in providing the content to the Pacific … No commercial networks are building partnerships in the Pacific.

Mr Eccles: I am aware of that reporting. I am also aware that we are in very constructive discussions with Free TV around the process leading to the provision of Australian content into the Pacific. We took Senator Hanson-Young through the processes that we are engaged with in the discussions with Free TV. We are having very fruitful discussions with them.

Senator O'NEILL: How do you reconcile that with the comments of Ms Bridget Fair that I just put on the record?

Mr Eccles: It is not up to me to reconcile those comments. All I know is that the discussion that we are having with Free TV is around giving effect to the government commitment to provide more Australian content to the Pacific. We're in the process of developing a contract and we have had good initial discussions about how to facilitate access to the rights for Australian programming.
Senator O'NEILL: Does the department agree with the former head of the Australia Network, Bruce Dover, who said that the policy did not meet the needs of the Pacific and was effectively a taxpayer subsidy to commercial TV in the lead-up to the election?

Mr Eccles: This goes to things that we discussed earlier. The role of Free TV is very much to act as a coordinator so that they can secure the rights for television programming that are held by often commercial production houses or the Australian production sector. I will repeat the process. The first step of the discussions that we are having with Free TV is to gain an understanding of what programming the Pacific Island broadcasters would find valuable and useful. We would then do an assessment of that against the catalogue of programs that Australian rights holders are prepared to make available for this purpose. Free TV plays that coordination role. We would do the matching up, and then we would arrange for the rights to those particular programs to be made available to the Pacific networks so that they can broadcast those programs satisfied that they are not breaching copyright or any other problem.

Senator O'NEILL: Mr Eccles, you have thoroughly described the process that you're undertaking there. The reality is that your description of the process doesn't match with key participants in the sector on the public record, and it doesn't match with reports from the Pacific nations themselves, who are concerned that this is just another Jerusalem embassy announcement just prior to an election—buying off some TV—another mistake by a thought-bubble driven Prime Minister.

Senator Fifield: That's commentary. It's not reasonable to expect officers to speak to it.

CHAIR: Yes. We need to stick to questions and answers.

Senator O'NEILL: I will go to a number of other questions about the detail of the commitment. Where has the $17 million funding come from?

Mr Mrdak: It has been provided by government. It's additional funding that has been provided by the government for this purpose.

Senator O'NEILL: Additional funding. It's not been cut from the ABC?

Mr Mrdak: It's been funded from the government's budget. It's not been identified from any particular source.

Senator O'NEILL: The ABC is funded from the government budget. Can you guarantee this is not funding cuts to the ABC?

Mr Mrdak: This is funding that has been provided in the normal MYEFO process. I am not aware there is any linkage at all to previous decisions by government.

Senator O'NEILL: Who will administer this $17 million?

Mr Mrdak: This department will undertake contract negotiations and administer the funding on behalf of the government.

Senator O'NEILL: And how much will that administration cost?

Mr Mrdak: The administration cost will be absorbed by the department.

Senator O'NEILL: Has any of the proposed $17 million been committed?

Mr Mrdak: There has been an announcement made, but, until such time as we have completed the process Mr Eccles has outlined, there will be no funding commitment till contracts are signed.

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ENVIRONMENT AND COMMUNICATIONS LEGISLATION LEGISLATION COMMITTEE
Senator O'NEILL: So no funding has been committed at this point? All we have is an announcement?

Mr Mrdak: The government has announced its intention, and we are now trying to settle a contract with Free TV.

Mr Eccles: We are in discussions with Free TV about that.

Senator O'NEILL: Do we have a contract?

Mr Eccles: There is no contract signed at this point in time.

Senator O'NEILL: Do you have a contract, though?

Mr Mrdak: We are undertaking work within the department to prepare a contract.

Senator O'NEILL: So there is not a contract that's been presented; it's still being developed. Is that correct?

Mr Mrdak: It's still being developed.

Mr Eccles: This is because we're still talking to Free TV about the best means to give effect to the commitment.

Senator O'NEILL: Could you tell me what milestones are embedded in the contract?

Mr Eccles: There are none because the contract is not finalised.

Senator O'NEILL: Will there be milestones embedded in the contract?

Mr Mrdak: There will be.

Senator O'NEILL: Of what nature?

Mr Eccles: It's speculative, but one would assume it would be identifying the programming that is of interest and it would be around the provision of the content rights to the broadcasters in the Pacific. They would be a couple of the milestones, but no doubt there will be other administrative milestones included.

Senator O'NEILL: Now, Mr Eccles and Mr Mrdak, you are very mindful of the timeframe we are operating under here in such proximity to an impending federal election. Can you confirm that none of these funds will be committed prior to the federal election?

Mr Mrdak: That will be very much dependent on the discussions taking place. I can't give you a time frame at this stage for the completion of those discussions with Free TV.

Mr Eccles: The commitment is for the programming to commence in the next financial year, and we will be moving to that effect.

Senator O'NEILL: To the next financial year. Mr Eccles, with regard to timing, how long do you expect that process you outlined to take? At what stage would you say you are, and when is likely completion?

Mr Eccles: I would be reluctant to give a firm time line. We are having discussions with Free TV. They will accelerate over the coming weeks, but, until we are more advanced, I would be reluctant to give a prediction around timing.

Senator O'NEILL: Can you guarantee that no contract will be signed before the upcoming federal election?

Mr Mrdak: We can't provide any such guarantee. We are very much dependent on reaching an acceptable agreement with Free TV, including the work that has to be done with
the Pacific broadcasters. I can't give you anything other than trying to explain the process. Certainly, as Mr Eccles has indicated, people would like some certainty if they are going to start providing programming in the next financial year. If we can complete those negotiations earlier, that would be to the advantage of everyone.

**Senator O’NEILL:** I go to the practical details. How will Australian commercial television be provided in the Pacific exactly?

**Mr Eccles:** Again, it's early days, but in general it will be through securing the rights for programs and then ensuring that the Pacific broadcasters are aware that they have the rights to broadcast the programs and they will broadcast those programs over their own network. So this is not about broadcasting from Australia; it is about securing the rights which allow the Pacific networks to be able to then broadcast or utilise those programs without fear of contravening copyright.

**Senator O’NEILL:** So that I'm 100 per cent clear: this is a program supply deal that doesn't involve any satellites or any other technologies?

**Mr Eccles:** Not from here.

**Mr Mrdak:** It's simply providing the content to the broadcasters in each of those countries—effectively a menu of content which they can then draw upon.

**Senator O’NEILL:** Will the supply be done on an ad hoc or contractual basis?

**Mr Eccles:** It is too early to say, and that's the reason we are having discussions with Free TV. It's a key issue that we need to work through.

**Senator O’NEILL:** What consultation are you undertaking with the Pacific nations because they are the recipients of this?

**Mr Eccles:** That will be a key part of the first step of the program that we discuss with Free TV to engage with the Pacific Island broadcasters to get a better sense of what programming genre they would find valuable and useful and would meet their particular needs. Once we have that information, as I said, we will do an assessment against the catalogue of programs that rights holders have, and at that point we will determine what catalogue of rights is made available to the broadcasters.

**Senator O’NEILL:** Wouldn't it take quite some time to actually carefully discern the interests of the Pacific nations?

**Mr Eccles:** Again, that's something that we are in discussions with free TV about. They're in a better place than we are to have the contacts in the Pacific. We are probably several weeks from being able to engage on that level of detail.

**Senator O’NEILL:** If I understood what you just said—please correct me if I'm wrong—the government is not undertaking, through the department, negotiations or research with Pacific nations about what they want. You are allowing the private broadcasters to determine that.

**Mr Eccles:** No. Perhaps I can characterise it this way: as part of the next set of discussions with Free TV, we will talk with them about the best way we can engage with Pacific Island broadcasters to understand what they believe is content that can fill gaps or that would be valued by their audiences. They are in a much better position than us to understand their audience needs, so it would be discussions with those groups, and then at that point we would
do an assessment on the feedback about what is available on the catalogue of content that's available.

**Senator O'NEILL:** If I understand you correctly, you are going to use the contacts to connect with the Pacific Islands?

**Mr Eccles:** We are going into discussions that have just started. As you would appreciate, the decision is fairly fresh. We have just started discussions with Free TV. I don't want to be drawn into a level of detail that would turn out to be inaccurate once we've advanced those discussions with either Free TV or—

**Senator O'NEILL:** I don't want us to be drawn into a contract that will turn out to be an imposition of commercial broadcasters on a Pacific that isn't being adequately consulted by the government, whose responsibility as I see it is to discern what is required rather than putting it out to the agent who's getting the money to determine what they want to sell into the Pacific.

**Mr Eccles:** Free TV will be provided with money for their administrative support. The significant recipient of the funding will be the rights holders—the holders of the rights to the programming. Quite often, the rights for programming are not held by the television broadcasters themselves; they are held by production houses or just members of the production sector in Australia. We will negotiate access to those rights.

**Senator O'NEILL:** I indicate, though, my continuing concern, despite your answer then, about the government's engagement, given this is a significant change and it seems like there's a rush to getting a contract prepared—that the government isn't taking seriously its responsibility to be in proper conversation with the Pacific. We've seen this government make a few mistakes in the Pacific in recent periods—failures to consult. That is my concern. I'm not clear about how the department is taking the responsibility on behalf the government to consult with the Pacific island recipients.

**Mr Eccles:** I don't think there is anything more I can add to what I have said before. The first part of this is to understand what the broadcasters in the Pacific see to be the programming genre and types that would be of interest to their audiences. I accept what you are saying in terms of the importance of consultation, and we are in the process of working with Free TV around how to give effect to that.

**Senator O'NEILL:** Why is Free TV in a better position with the contacts in the Pacific than the department?

**Mr Eccles:** They understand the broadcast sector. It would be a partnership arrangement. They speak the same language as broadcasters. But we will be working very closely with Free TV.

**Senator O'NEILL:** Why isn't the Department of Communications and the Arts in contact with the Department of Foreign Affairs and Trade about this?

**Mr Eccles:** I've not suggested that we are not talking across government about this at all.

**Senator O'NEILL:** Can you give me a straight answer. Which other departments are you consulting about this?

**Mr Eccles:** We are talking with the Department of Foreign Affairs and Trade, as this—

**Senator O'NEILL:** Will be—meaning future tense?
Mr Eccles: We have and we will continue to work with them as this program evolves.

Mr Mrdak: The short answer is that we have been quite heavily engaged with them. This is one of the initiatives, amongst many, the government has announced for regional engagement. It has been developed and tracked with the relevant DFAT officers, who are pulling the whole-of-government approach together.

Senator O'NEILL: You would be aware of the reports of this announcement, the details of which we are discussing, by Ms Jenifer Duke in an article on 4 February in *The Sydney Morning Herald*. This Free TV that you are saying is the source of all the knowledge about what should happen in the Pacific—

Mr Eccles: I'm not suggesting that.

Senator O'NEILL: Sorry, that is a mischaracterisation—but you are relying significantly on. One television industry member said it was an example of Mr Morrison's plans to use soft power to improve global opinion about Australia and it had no benefit for the free-to-air networks. But multiple sources describe it as a thought bubble and queried how extensive the consultation had been ahead of allocating the funds. This is on the public record as a level of concern about the entirety of this process, from the Prime Minister's thought bubble announcement to the contract rapidly in construction, about which you can't answer significant detail.

Mr Eccles: We can't answer in significant detail because those significant details are being worked through. The program doesn't commence until the beginning of the next financial year.

Senator O'NEILL: Which is how many months away?

Mr Eccles: It would be—

Senator O'NEILL: It's a matter of weeks, isn't it?

Mr Eccles: No.

Senator Fifield: Months—February, March, April, May and June.

Senator O'NEILL: It's not very long to get the Pacific Islander—

Senator Fifield: It's more than weeks.

Senator O'NEILL: It's not very long to get international relations properly considered.

Mr Eccles: There is nothing more I can add, other than that we are working collaboratively with Free TV. We are engaging with the right people in Canberra. We plan to engage with the right people in the Pacific to give effect to the government's commitment.

Senator O'NEILL: I guess I have concerns that the Australian government is actually outsourcing international and power relations and diplomacy to the commercial television industry.

Mr Eccles: I don't think that's a fair characterisation.

Senator O'NEILL: Who will receive the funds?

Mr Eccles: Free TV will be the portal for the funds, but the ultimate recipients we expect in significant part to be the rights holders of the particular programs that have been chosen and agreed to be provided for the Pacific broadcasters.
Senator O'NEILL: How will it be determined which Australian networks and/or production companies receive the funds?

Mr Eccles: I can't add to what I have said. We will go through a process of understanding what program is valued and sought by the Pacific networks. They know their audience as well. We will understand what that is and then we will work with Free TV who are at the moment getting a handle on what content rights would be available under this program. There will be a matching exercise and those rights will be provided.

Senator O'NEILL: How will it be determined which Pacific recipients there are?

Mr Mrdak: A range of nations have been identified with DFAT as part of the government's consideration. We envisage that the key countries in focus would include Papua New Guinea, Fiji, Vanuatu, the Solomon Islands, Kiribati, Tuvalu and Nauru. Other countries may well be identified, but they're the primary countries that have been identified at this stage.

Senator O'NEILL: What consultation with DFAT will characterise the progress of this contract?

Mr Mrdak: DFAT has a team of people working on the range of initiatives that the government has announced. We're working quite closely with them. They're obviously working with the posts. As you know, the government recently announced that it would be extending the number of posts in the region, and it is now in the process of doing so in a number of countries. So that network is growing. And DFAT also has significant and dedicated resources working in the space of the Pacific enhancement issues. So we're working through those.

Senator O'NEILL: What oversight of the funds will the government have?

Mr Mrdak: The government will have oversight through the contract that's been negotiated. As Mr Eccles has outlined, that will set the types of content, the amount of content and the timing and basis of that content being provided to Pacific broadcasters.

Senator O'NEILL: The content choices will be determined—

Mr Mrdak: They will also be determined by government as part of the contract. We envisage that a menu or catalogue, as Mr Eccles has rightly put it, would be offered up. The final choice of that will be settled by the government together with Free TV.

Senator O'NEILL: How much of a role will your department have in that process? Who's the lead agency in this?

Mr Mrdak: It will be this department providing advice to the minister.

Senator O'NEILL: Does Free TV have expertise in the acquisition of international broadcast rights?

Mr Eccles: We're not acquiring international rights; we're accessing domestic rights. This is Australian content. Free TV and their members have significant access. It's what they do: they negotiate rights and they broadcast.

Senator O'NEILL: Just following up on your answer to my last question about the negotiation of agreements and the management and coordination of supply of content—who is doing that? Is that you?
Mr Mrdak: That's ourselves, yes.

Senator O'NEILL: You do all of those things—the agreement, the management and the coordination of supply of content going forward?

Mr Mrdak: Yes. The department will do that. Free TV will be responsible, on behalf of the industry, for pulling together the buying of the rights from the rights holders.

Senator O'NEILL: Is there such a thing as a scoping study that you're embedded in in the midst of this process?

Mr Mrdak: We've got an internal project plan that we're working to in relation to this project.

Senator O'NEILL: Is it fair enough to call it a scoping study?

Mr Mrdak: Well, a decision has been taken to proceed with this action. It's really an implementation program which the department has developed.

Senator O'NEILL: Is it possible that the implementation might occur in the caretaker period?

Mr Mrdak: By convention, the department would not enter into significant contracts during the caretaker period, but negotiations and finalisation of matters, as per government policy, could and would continue through the caretaker period.

Senator O'NEILL: Will the contract contain a clause to return uncommitted or underspent funds?

Mr Eccles: Standard contracts do provide such a clause.

Mr Mrdak: We would only make funds available for things that have actually been purchased and provided.

Senator O'NEILL: Will the contract include a clause for the return of uncommitted funds to the Commonwealth?

Mr Mrdak: Yes, if that were to take place. We envisage that the Commonwealth would only be making payments in relation to material that actually was purchased and made available. We don't envisage a prepayment per se, which would necessitate a repayment. But those are matters which we're now sorting through.

Senator O'NEILL: Just to confirm what you've said—the contract will not employ a mechanism to commit all the funds up-front. Is that correct?

Mr Mrdak: That's correct.

Mr Eccles: There will be an acquittal process throughout the contract, which is the standard arrangement.

Senator O'NEILL: But that's a time line you were unable to indicate to me in my earlier questioning.

Mr Eccles: That's right. We're still in discussions around all of those matters.

Senator O'NEILL: Would you be able to provide me with a forward projection? I'm sure you'd have some planning documents about the timing around this.

Mr Mrdak: We can provide you, on notice, what we anticipate to be the timing and next steps.
Senator O'NEILL: I have a serious concern that this could be a contract that's signed on the eve of an election and locks $17 million of taxpayer funds into a poorly considered and not requested delivery of commercial TV, which is getting a $17 million boost.

Mr Mrdak: I think, as Mr Eccles has outlined, both the Australian government objectives in relation to the region but also the producers are the primary beneficiaries of any rights payments that are made under this contract.

Senator O'NEILL: With regard to the detail of the sorts of programming, will the funds be expended on new programming only or can it go to back catalogue?

Mr Mrdak: We envisage most of it would be on, essentially, content that has already been created and shown in Australia, but there may well be provision, depending on timing, for new content to be created.

Senator O'NEILL: How far back?

Mr Mrdak: That is yet to be determined, but we are looking for relatively current content. The objective of this is to provide—

Senator O'NEILL: There are a lot of qualifiers in that sentence, Mr Mrdak.

Mr Mrdak: There are. We need to work with the production industry to see what is available. Clearly there will be a mix of more recent content. The government is trying to showcase Australian lifestyle and culture as well as areas such as documentaries and information programming that may well be a mix of more recent material as well is some material which is back catalogue, if you can put it that way, which would be of interest in those nations to demonstrate Australian values.

Senator O'NEILL: Because it could be very concerning for people in the Pacific that they end up getting dumped on them a whole lot of old content.

Mr Mrdak: I think, as I say, we are looking for more current content which shows, highlights and showcases Australia's values, lifestyle and culture.

Senator O'NEILL: Can the funds be used for children's programming?

Mr Eccles: Indeed.

Mr Mrdak: We do envisage that, yes.

Senator O'NEILL: Will you specify a content amount of children's programming in its currency?

Mr Mrdak: Again, subject to all of the process Mr Eccles outlined, yes, we may look at that depending on the needs of specific broadcasters.

Senator O'NEILL: Are there costs likely to be incurred by the Pacific broadcasters?

Mr Mrdak: And we envisage this measure as being about taking out the cost impost for them of the rights purchase. Obviously, they may have their own broadcasting costs, but our intention is to try to make this material effectively available to them at no cost.

Senator O'NEILL: When you say you envisage, that doesn't mean that you can guarantee it. Is there a risk there may be costs to Pacific broadcasters of this thought bubble program that the Prime Minister—

Mr Mrdak: It really will depend to some degree on the amount of content we can purchase with the funds that have been made available. We envisage that this would be at no
cost to the Pacific broadcasters, but there may be certain programs which we would make a
contribution to rather than meet the whole cost. We're working through that at the moment.

Senator O'NEILL: So this is opening up the market for the commercial TV sector where you might part fund some things and the Pacific nations would have to make up the difference to get the up-to-date content?

Mr Mrdak: We haven't got to that stage yet, I'm just indicating—

Senator O'NEILL: But that's a risk, isn't it?

Mr Mrdak: There may be certain programming where we aren't able to meet, given the budget, all of the cost, but we don't envisage that at the moment. We are certainly providing an avenue for Australian production to get exposure and broadcast in the region.

Senator O'NEILL: But perhaps at the cost of the Pacific Islands.

Mr Eccles: We're speculating on these things. The intent of the program is to free up the rights to Australian programming so that Pacific broadcasters can broadcast it to their audiences without having to purchase the rights.

Senator O'NEILL: Will this process that we've been discussing undercut the ABC's ability to acquire content for international audiences?

Mr Eccles: I can't envisage how.

Senator O'NEILL: Do you want to take that on notice, and if—

Mr Eccles: I think the answer is no.

Senator O'NEILL: Thanks, Mr Eccles. I'll look forward to the responses to some of those questions a little later in the session.

Senator CHISHOLM: I have some questions about the NBN. Is NBN Co forecast to make any dividend payments to the Commonwealth over the forward estimates?

Mr Mrdak: Not over the forward estimates, no.

Senator CHISHOLM: When does the NBN Co begin making dividend payments to the Commonwealth?

Mr Mrdak: I don't believe it's forecast at this stage to make any dividend payments within the current corporate plan of the NBN.

Senator CHISHOLM: So that means no dividend payments until past 2040?

Mr Mrdak: Sorry, within the current NBN corporate plan, which has a life until 2022. There's no provision for dividend payments within the life of the current corporate plan, which was provided last year by the board of NBN Co.

Senator CHISHOLM: But the NBN corporate plan is forecast out to 2040.

Mr Mrdak: There are certain assumptions in there, but the corporate plan itself, in relation to matters relating to the government peak funding and the like, has a life to 2022. As you know, it's updated annually to provide ongoing corporate planning processes. While the business plan has a life beyond that, the corporate plan, which sets out the financial relationship with the Commonwealth, only has life to 2022.

Senator CHISHOLM: Okay. What is the status of the dividend payments while the principal of its $21.4 billion debt remains outstanding?
Mr Madsen: The NBN project is a long-term project. It will go through several phases. The first phase is the construction phase, in which the project is cash flow negative. Once the NBN becomes cash flow positive, it will start to use that cash flow to pay back—initially it will refinance the Commonwealth loan with a private loan, and then it's assumed that NBN would pay down that private loan and, in the longer term, make dividend payments to the Commonwealth.

Senator CHISHOLM: Is it expected that the principal would be paid off before they start making dividend payments?

Mr Madsen: There haven't been long-term decisions made about the capital structure of the business in terms of how it might hold its debt and at what point it may start paying dividends to the Commonwealth.

Senator CHISHOLM: So the corporate plan doesn't assume any dividend payments before 2040?

Mr Madsen: As Mr Mrdak has pointed out, the corporate plan covers the four years out to 2022. In the longer term it does project an internal rate of return. They're the estimates that go out to 2040, and that's for the purpose of calculating the rate of return. That's based on a series of assumptions in the longer term; it doesn't reflect decisions that the company or the government have made about the capital structure for the business in the longer term.

Senator CHISHOLM: Does it state how it would treat the principal on the outstanding loan?

Mr Madsen: The current Commonwealth loan will be refinanced by NBN and repaid in full to the Commonwealth by June 2024. At that point, NBN will hold private debt. It would be a decision for the corporation at that time as to how it manages that debt in the longer term.

Senator CHISHOLM: Is it expected the NBN Co would make a dividend payment before June 2024?

Mr Madsen: No, it's not expected that a dividend payment would be made before then.

Senator CHISHOLM: Does the corporate plan assume any principal payments on the refinanced private NBN loan to 2040?

Mr Madsen: It doesn't. As we've mentioned, the current corporate plan goes out to 2022, and the Commonwealth loan will be refinanced and repaid in 2024. At this stage the corporate plan doesn't make any assumptions about payments of that private debt.

Mr Mrdak: The company is yet to go to market for that debt. The term of that debt is yet to be settled. So those issues of when they would repay any principal and the prevailing rate of interest would really be dependent. They'll start that process through this year. They will draw down the Commonwealth loan, effectively, before they go and lock in the private debt that's been announced for peak funding. As part of that negotiation with the providers of that private debt, they would set a repayment term for the principal. That's yet to take place.

Senator CHISHOLM: Is there anywhere that NBN Co outline how they expect to pay off the principal and its debt?

Mr Mrdak: As I said, they're yet to go to market so that will be somewhat dependent on the availability of the debt and the structure of it. They're probably questions you may wish to put to the company, but they would obviously be looking to service the debt, both interest and
principal, from their revenue projections that the company has for the future, taking into account their operating and capital costs.

Senator CHISHOLM: But the internal rate of return calculations go out to 2040.

Mr Mrdak: Yes.

Senator CHISHOLM: So this accounts for costs, revenues, interest payments and other cash flows I presume?

Mr Mrdak: It does.

Senator CHISHOLM: So how can there be no assumptions about principal payments?

Mr Mrdak: They've not yet taken place in terms of the amount and the timing of that, but we are confident that the revenue projections that are available out to 2040 will enable them to carry that level of private debt and also to refinance the Commonwealth loan.

Senator CHISHOLM: What assumptions does the NBN corporate plan, which forecasts out to 2040, make about principal payments on the debt the NBN will be carrying?

Mr Madsen: As we've mentioned, the corporate plan provides detailed forecasts over the four years of the corporate plan, and they reflect the decisions that the NBN executive have taken for the purpose of the corporate plan. In order to generate an estimate of long-term return, which is the internal rate of return, for the last year of the corporate plan a series of assumptions are adopted about key aspects of the business—operating costs, revenue and future capital—and they are projected out to 2040. But those assumptions don't reflect decisions that the company has taken about how it will manage its capital. They are assumptions for the purpose of generating an estimated rate of return. They're subject to further consideration by the company as it enters into those further loans and considers how it will repay those loans.

Senator CHISHOLM: So does this mean the internal rate of return calculations in the corporate plan currently assume no principal payments and no dividends?

Mr Madsen: Senator, I think I'd have to take that on notice. I can't recall the assumptions that it makes with regard to the allocation of the cash flow in the longer term.

Senator CHISHOLM: Because you would assume that they'd need to be captured when you're calculating the internal rate of return.

Mr Madsen: As I've indicated, there are assumptions that allow the company to generate a forecast for the rate of return, but they don't reflect decisions that the company has made about that debt and how it will be repaid, or decisions that it may have made about when it may start paying dividends. It would be incorrect to use the internal rate of return calculation in those assumptions to characterise the company as having made decisions about when it might start paying dividends.

Mr Mrdak: The NBN Co this evening may well be able to give you a better explanation of what actually forms the basis of its projections to 2022 and also beyond.

Senator CHISHOLM: Thanks.

Senator URQUHART: I've got some mobile blackspot questions. Mr Paterson, how many new mobile blackspots were added to the database when it was opened for new nominations last year?
Mr Paterson: The database at the moment has 13,480 black spots on it. There were 3,676 new ones added during the round 4 nomination process. An additional 971 were nominated but they were already on the database, so we didn't add them to it. Out of that 3,676 new reported black spots, 382 related to public interest premises, which is a component of the fourth round.

Senator URQUHART: At the last estimates, Mr Paterson, you gave us a list of 141 base stations from rounds 1 and 2 that were not yet operational.

Mr Paterson: Yes.

Senator URQUHART: What's the number of base stations from these rounds that are not operational today?

Mr Paterson: The information I have is as of 31 January. I'm just going to do a quick calculation for you. We had 499 under round 1 and 266 under round 2, which takes us to 765, of which we have—total number of sites on air is 649.

Senator URQUHART: So there are 649 that are not operational.

Mr Paterson: Out of 765, yes.

Senator URQUHART: Can you confirm for me how many base stations out of those 765 from rounds 1 and 2 are operational. Is it the balance between 765 and 649? Is that too simplistic?

Mr Paterson: The operational number is 649.

Senator URQUHART: I thought you just said 649 were not operational.

Mr Paterson: No.

Mr Mrdak: They're the operational ones.

Mr Paterson: Yes: 649 are operational out of 765 under the first two rounds of the program.

Senator URQUHART: That means there are 116 that are not operational. Is that correct?

Mr Paterson: That's correct.

Senator URQUHART: Thank you. Can you give us an update on the progress with base stations from round 3?

Mr Paterson: On round 3 there were 102 base stations. There are currently 18 on air.

Senator URQUHART: Eighteen on air?

Mr Paterson: Yes. So 18 are operational. That round is scheduled for completion on 30 June this year, like the first two rounds, noting that it takes 12 to 18 months normally to get a base station operational. That will accelerate over the next four months.

Senator URQUHART: You're going to be busy over the next four months to get from 18 to 102. Is that going to happen?

Mr Paterson: To put it in context, in 2017-18 we averaged one base station per day. What we're doing now is averaging one base station a little bit over every two days, because we've got to the difficult ones at the end. But we're still averaging one every two days.

Senator URQUHART: Are you aware of any current delays that might occur with these towers?
Mr Paterson: Yes, and I can take some detail on notice if you want. There are a range of delays which relate largely to planning approval delays and requirements from local councils for additional activities such as an environmental study, for example, or an additional layer of consultation with the local community. I'm aware of base stations where there was an MOU with a landholder for the land access. Six months in, that landholder withdrew their permission, so they had to negotiate a new land access agreement.

Senator URQUHART: Are you still confident that that number of 102 will be operational by 30 June?

Mr Paterson: No, I'm not. What I am confident of is that we will be close to that number, but I can't give any guarantee that we will get to that number. If a landholder, for example, withdraws their permission in two months time—a lot of the process in building a base station is the AAA process, which is access, approval and accessibility, which basically means land access, council approval, access to the site, getting the power connected, all those sorts of things. Some of those can come through quite late in the process. For example, the power company may not connect the base station on time and you could wait several months for that.

Senator URQUHART: Out of the 84 that are left operational before 30 June, can you give me some idea about how many you think will be delayed beyond 30 June? What are you aware of now, without trying to speculate?

Mr Paterson: At the moment I'm operating on the basis I'm going to get as many of those done as I can. I do know we have some difficulties in the Northern Territory, so there are a small number of sites there. There are a small number of sites in Western Australia. It is very difficult topographically; the country is very difficult in those areas and there are long distances.

Senator URQUHART: How many towers does that take into account?

Mr Paterson: Looking across all three rounds, it's hard to say—maybe 10, maybe 15, maybe more. But I can't commit to any number right now.

Senator URQUHART: That's fine. How many new base stations will be funded under round 4 of the program? What's your expectation?

Mr Paterson: We're actually doing the assessment process right now, and also doing the contract negotiations. It's not something I can really comment on during the middle of it, because we're doing the assessment and the negotiations at the same time. It's not something I can really comment on at the moment, I'm afraid.

Senator URQUHART: So you don't have an expectation of the number?

Mr Paterson: I know what I'm hoping for in the assessment process, but, because I'm doing the contract negotiations at the same time, I can't really put the numbers out there.

Senator URQUHART: When will the government be in a position to announce the outcomes of round 4 of the Mobile Black Spot Program?

Mr Paterson: I'm pushing very hard to put the government in a position where they will be able to make some announcements in a few weeks time.

Senator URQUHART: Are the locations ready to be announced now?
Mr Paterson: No, they're not. We haven't completed our assessment. I have no list on my desk back at work. A large part of the assessment process is quite a difficult mapping and spatial exercise, because to fund a base station you want to know what the coverage outcomes are. So it's quite a difficult exercise comparing it to the coverage maps: How much is handheld coverage? How much is external? How many premises are there? What are the road links? How does it link to other base stations in the area? That's quite a complex exercise. So we're still in the middle of that part of the process.

Senator URQUHART: Once those locations for round 4 are known and announced, what are the next steps in the process from there?

Mr Paterson: I can take you through the process. We're doing our assessment process, so once we've done that, internally, that will go through an external probity adviser to make sure we've got everything right. There are parts of it that we will put through an external technical adviser to make sure that we've understood the technology properly. We will do a report that will go through an approval process through the department so that I have one or two other people tick it off, if you like, and then that will go to the minister for a decision. The minister in this case is, of course, Minister McKenzie. At the same time as we do that, I'm negotiating the contracts, so I will generally agree terms. So, when the minister gets to make a decision on the outcomes, I can say to her with some confidence, 'If you decide to give carrier X some base stations, I've agreed terms with them on the contract.' You then go back to the carriers, because a large part of the program is always the state co-contributions, so we have to go back and tell them what's funded. They have to confirm it with the states and lock in their own agreements. Then it will come back to the minister. We'll say, 'It's all confirmed, and if you now sign the contract, we can move to announcement.'

Senator URQUHART: What is the likely time frame for that process?

Mr Paterson: I expect that to be completed over the next few weeks. My expectation is we'll have this completed sometime in March.

Senator URQUHART: Would that process for round 4 be affected by caretaker provisions at all? Does that interrupt the process for round 4 in any way?

Mr Paterson: I'm not expecting it to, depending on the timing of the election, because I'm expecting we'll have some results—

Senator URQUHART: Before that.

Mr Paterson: before that.

Senator URQUHART: If we then went into caretaker, that does—

Mr Paterson: In standard caretaker provisions, we normally wouldn't sign a contract. If you did sign a contract of this nature, my understanding—and I'm not an expert on caretaker provisions—is the opposition would have to agree to the signing of that contract.

Senator URQUHART: But you're expecting that around March—so before the April budget?

Mr Paterson: Correct.

Senator URQUHART: At the last estimates, we confirmed that round 4 of the Mobile Black Spot Program was being funded from an underspend of rounds 2 and 3 of the program.
Can you confirm then that no new funding has been applied to the Mobile Black Spot Program since $60 million was announced for round 3 in 2016?

Mr Paterson: I'm operating on round 4 of the program at the moment. That's where all my energy is devoted to. Round 4 of the program is the unallocated funding from the earlier rounds.

Senator URQUHART: Is the department looking at any other options to improve regional mobile services such as the low Earth orbit satellites that were referred to in the 2018 Regional telecommunications review?

Mr Paterson: Not my area in the department, but we do try to keep across what's going on in regards to technologies. If you look at the new LEO, low Earth orbit, and also the MEO, medium Earth orbit, satellites that are being launched over the next 12 to 18 months, there is the potential there for them to be a bit of a game changer for regional Australia, but I'm yet to speak to somebody who can give me their business case around it. There's a lot of excitement in the industry, but I have yet to speak to somebody who's actually been able to commercialise that in some way. At a very basic level, because they're lower satellites you have less of a latency issue for, say, voice communications, and because there's so many of them a mobile satellite call switches between satellites and you can sometimes get dropouts and lags. Because they're lower satellites and there are so many of them, those two issues won't be as prevalent. From the voice perspective as well as the data, there's a lot of potential there, but it's 'wait and see'.

Senator URQUHART: The regional telecommunications review also referred to the AT&T's AirGig wireless technologies. Has the department done any assessment of this technology? And if so, can you outline what is attractive about its solution as a mobile-to-mobile connectivity?

Mr Paterson: I'm going to have to take that one on notice, I'm afraid. I know there has been some done in my area on it, but I'm not across it.

Senator URQUHART: Minister, when can we expect a government response to the Regional telecommunications review? I understand you've had it since September last year. Is that correct—about five months?

Senator Fifield: I'll ask the secretary.

Mr Mrdak: The government will make a response ahead of the statutory requirement, which I think is the end of March.

Mr Paterson: That's correct.

Senator URQUHART: So the middle of March?

Mr Mrdak: The end of March. The response is due by the 30th.

Mr Paterson: The report was provided to Minister McKenzie on 30 September. There's requirement that she responds within six months, which is by 30 March. That's a public response that has to be tabled, either out of session or in session.

Senator URQUHART: Minister, on 2 July last year, you announced $700,000 in federal funding to improve mobile network capacity through Tasmania's west coast. On 3 October 2018, your chief of staff wrote to the west coast mayor confirming the coalition government was fully committed to delivering the project. Your chief of staff then went on to state that the
project is a priority for the government and he expected to be in a position to brief the mayor on arrangements in coming weeks. That was in October 2018. Minister, has the brief been provided to the west coast mayor, and has the department finalised this contract?

Senator Fifield: I'll ask the officers who are handling that contract to speak to it.

Mr Paterson: We've been involved in some negotiations with Telstra around the provision of increased backhaul capacity in the north west of Tasmania, which was the nub of the by-election commitment. As in all things telecommunications, the devil was often in the detail. We've now reached an in-principle agreement with Telstra, but we're now actually in the contract negotiation phase around that. We're also keeping the local council in Tasmania across what we're doing as well.

Senator URQUHART: Has the west coast mayor been contacted in relation to that?

Mr Paterson: I have spoken to the council rather than the mayor himself.

Senator URQUHART: So that is not lost in the 'Fifield triangle' that we referred to earlier? Has it been followed through?

Mr Paterson: I can comment in regards to my activities under that. It's one of my tasks that I'm progressing, and I would expect it to be resolved in the next few weeks.

Senator URQUHART: In the next two weeks?

Mr Paterson: No, not two weeks—next few weeks.

Senator URQUHART: Oh, sorry, 'few weeks'.

Mr Paterson: Yes.

Senator URQUHART: I got excited then, because I thought you gave me a time frame!

Mr Paterson: Yes, I started to blanch a little!

Senator URQUHART: Okay. Great. In relation to that, you talked about the devil being in the detail. What is that? What do you mean by that?

Mr Paterson: The general commitment was to provide backhaul to a number of communities and areas in the north-west of Tasmania.

Senator URQUHART: In the north-west or the west?

Mr Paterson: It's probably best if I refer to the specific announcement.

Senator URQUHART: Yes, sure.

Mr Paterson: We are following very closely what the election—my colleague has given it to me. The proposal was to improve additional backhaul capacity to improve mobile services in towns Granville, Rosebery, Queenstown, Savage River, Strahan, Zeehan, Tullah and Waratah.

Senator URQUHART: So, all on the west coast.

Mr Paterson: Yes. How you provide that backhaul is that you can lease it from the Tasmanian government or you can construct your own backhaul—do you put fibre in, do you put microwave in and so forth. And then part of our negotiations is that the intention of the backhaul was to actually improve the mobile services in the area. So, obviously, we're also talking to Telstra, saying, 'We don't just want to put our financial contribution towards the backhaul; what's going to be done in a real sense in regards to actually improving the—
Senator URQUHART: Improving general services.

Mr Paterson: mobile facilities in the area? So it's working our way through that detail

Senator URQUHART: All right. We've got more for the department, but, as I've indicated to the chair, we'll follow those up later.

CHAIR: Is Senator O'Neill coming back?

Senator URQUHART: I can kick off.

CHAIR: You can kick off. Okay. So we are done with general. We'll move to the ACMA.

Australian Communications and Media Authority

[12:46]

CHAIR: Welcome, officers from the ACMA. Ms O'Loughlin, welcome back. Did you have an opening statement you'd like to make to kick off?

Ms O'Loughlin: Thank you. No opening statement. We're happy to take questions.

CHAIR: Senator Urquhart?

Senator URQUHART: Thank you. Can you provide a high-level description of the role you play in both nuisance calls and, separately, scam telephone calls? I'm sure anybody listening would be really interested in what role the ACMA play in those.

Ms O'Loughlin: We have quite a lot of responsibilities in the area. I'll do a bit of a summary and then I'll pass over to my team. We of course manage the Do Not Call Register. So, people across Australia can add their telephone number to the Do Not Call Register, which means that they cannot be called by various businesses. They can of course still be called by things like charities. That is an important part of our role. We also have a very large role in scams. But I might pass over to Jeremy Fenton to give us a bit of a summary.

Mr Fenton: Just to pick up there, the ACMA has established a scams technology project. This is to explore practical technological solutions to address the proliferation of scams on telecommunications networks in Australia. It'll be a collaborative project that involves the ACCC and the Australian Cyber Security Centre. In fact, representatives of both agencies sit on a reference group for the project.

Senator URQUHART: Right. Ms O'Loughlin, can I just go back a bit. You indicated that you look after the 'no' register—

Ms O'Loughlin: The Do Not Call Register, yes.

Senator URQUHART: Yes. Is that just Australian calls or is that overseas calls as well?

Mr Fenton: The register covers calls coming from anywhere. The legislation covers calls to Australian numbers.

Senator URQUHART: Right. In relation to scams, does the ACMA typically coordinate with the ACCC on this issue, or are the roles fairly distinct and separate?

Ms O'Loughlin: No. I think we work very much hand in hand with the ACCC. We each have slightly different roles.

Senator URQUHART: Can you talk me through what those roles are?

Ms O'Loughlin: I'll go back to what Mr Fenton mentioned. We've done a lot of work. We have responsibilities under the Spam Act, but what we're finding is that scams are getting
more sophisticated over time, particularly scams delivered over communications networks, which is where we play—the ACCC, of course, looks at other types of scams. We have coordinated with the ACCC and the Cyber Security Centre to start having a look at what additional interventions can be made to stop scams getting through communications networks. We think internationally there are some examples where the network operators themselves may be able to provide technical solutions to minimise the amount of scams that get through over the communications networks, and that's the big project we started in cooperation with the ACCC and the Cyber Security Centre. So it's a new piece of work for us, but it very much comes out of research that we have previously conducted that indicates the level of concern of consumers about the amount of scams they're getting through mobile phones, emails et cetera.

Senator URQUHART: Yes, sometimes they appear to be authentic.

Ms O'Loughlin: They look authentic, particularly if they're spoofing somebody's numbers. That is what we are looking at.

Senator URQUHART: In terms of you working with the ACCC in trying to deal with these issues, what sort of time frame are we likely to——

Ms O'Loughlin: We really only just kicked this project off in the last month or so. The reference group had its first meeting last week. It is chaired by Fiona Cameron, one of our authority members, with Delia Rickard from the ACCC and senior representation from the ACSC. The next stage will be for us to engage with industry around what the technical solutions are that communication network operators can offer. Jeremy will remind me of the end date.

Mr Fenton: The end date is towards the end of this year, so in December.

Senator O'NEILL: The questions you've just been answering for Senator Urquhart relate to the scam technology project. In addition to the brief update you just gave, I wonder if you could give me a more fulsome outline of the work you have been undertaking and the projection of the work going forward?

Ms O'Loughlin: We might talk a bit about our spam work.

Mr Fenton: ACMA administers the Spam Act and the Do Not Call Register Act and associated industry standards, so essentially it's telemarketing and spam. They both regulate commercial activity; however, both acts pick up scam activity as well. Obviously dealing with scam activity presents particular challenges to a regulator, particularly when much of it originates from offshore sources. The ACMA has adopted a strong regulatory stance in relation to the compliance and enforcement of both of those pieces of legislation.

As our chair noted before, we conducted a fairly large piece of consumer experience research that was released in December of last year. The findings coming through that were very clear that there's consumer dissatisfaction about the level of scam activity Australian adults are receiving. Also I think three-quarters of Australian adults thought that there was a role for government to play and that government should do more in the space, along with industry.

Senator O'NEILL: So arising from that report then is the establishment of this scam technology project?
Mr Fenton: From the ACMA's perspective, yes; however, we are also informed by ACCC data around the impact of scams, particularly the financial impact on Australians and the impact on Australians in vulnerable circumstances as well.

Senator O'NEILL: You indicated there'd been a meeting of the reference group.

Ms O'Loughlin: Yes.

Senator O'NEILL: Just one?

Ms O'Loughlin: Yes. We've only established it, and the first reference group meeting was last week.

Senator O'NEILL: What day was that held?

Ms O'Loughlin: Monday last week, I think.

Senator O'NEILL: How regularly do you intend to meet?

Mr Fenton: Approximately every four weeks the reference group will meet, but that may change depending on what work is in front of the reference group.

Senator O'NEILL: At a technical level, what have initial consultations revealed about the network traffic authentication protocols?

Mr Fenton: We've been engaged in bilateral discussions with a number of CSPs to date around those very issues. I'm somewhat reluctant to go into too much detail, because, as soon as disruption of scam activity is publicly identified, scammers very quickly circumvent the disruption methods.

Senator O'NEILL: So you don't want to give them any hints today?

Mr Fenton: That's our intent, with your agreement.

Senator O'NEILL: Yes, but there is work underway?

Mr Fenton: There is work underway. To more fully answer your question: one of the areas of interest for the ACMA will be, to the extent disruption measures and authentication protocols are used on a particular CSP's network, the extent to which they can be broadened so that there is whole-of-market coverage in Australia.

Senator O'NEILL: If there is anything further that you can add off the record, that would be of interest.

Ms O'Loughlin: We'll take that on notice. We also might add to that some of the other activities we are doing in terms of investigations and complaints, but we'll take that on notice and provide that to you.

Senator O'NEILL: Thank you very much. How do potential protocols interact with spoofed numbers which are generated from scam callers overseas?

Mr Fenton: That's quite a technical question. There is the potential for authentication protocols to, essentially, disrupt or allow verification of calls, including in relation to overstamping or spoofing. There are some quite significant technical issues to be explored around how those protocols can be rolled out in Australia, to the extent they can. Some of those protocols that I think you're referring to—they're certainly in the public domain—only work in an IP to IP network environment, and that is not the environment that we have, certainly some CSPs have in Australia.
Senator O'NEILL: Again, if there's further information you can provide on notice, that would be much appreciated. Are there any developments happening at a global standards level which seek to improve the capability of VoIP providers or networks to detect and manage spoofed calls?

Mr Fenton: Apart from the protocols you mentioned, the ACMA is not directly aware of any unified approach. The ACMA is a member of an international regulatory network that deals with unsolicited communications. It includes a range of international regulators, from the United States of America, the United Kingdom, New Zealand, Canada et cetera.

Senator O'NEILL: So the body exists. It's established. Is its work advancing? Is it active? Or would you describe it as not particularly engaged?

Mr Fenton: I would describe that there is activity proceeding in a number of jurisdictions along these lines, but there is not one unified approach that's being rolled out internationally.

Ms O'Loughlin: And that group is not a sort of standard-setting group but it is a group that we learn from and cooperate with.

Senator O'NEILL: So it's still developing as an international network really?

Ms O'Loughlin: Yes. It's been in place for some years now, but, in answer to your question, I think a lot of what you're asking is what this technology project will look at from an Australian perspective—what can we do here in advance of any international agreement around these things?—looking at all those deep technology issues about what can change communication networks in Australia to minimise the amount of scams that people are receiving. That's very much at the heart of the project.

Senator O'NEILL: Have any options been identified in terms of software being embedded in consumer hardware and being able to detect calls which are high risk and screening those? Is there an area where machine learning solutions potentially have a role to play?

Ms O'Loughlin: I think each of those would be looked at through the project.

Senator O'NEILL: So nothing is identified at this point of time? That's a work in progress?

Ms O'Loughlin: It's a work in progress.

Senator O'NEILL: Again, any updates on where you are with that, off the record or on notice, would be great.

CHAIR: We'll suspend now and return to the ACMA at 2 pm.

Proceedings suspended from 12:59 to 13:59

CHAIR: We'll kick back off with the ACMA again. Senator Dean Smith has a couple of questions.

Senator DEAN SMITH: I do. Thank you very much. This won't take long. I don't think it will be particularly painful either. My questions go to licence area plans or planning in South Australia, particularly with regard to the Mount Barker area. I understand that the licence area plan for Mount Barker in South Australia was set to be completed by the end of 2018. Of course, now we're in February 2019. I understand that not too much has been done. Can
someone give me an update with regard to where that licence area plan process is at and when it can be expected to be completed?

Ms Caruso: I'm not briefed on Mount Barker in particular, but I understand that that's probably one of the areas that we're looking at for AM to FM conversions. We're prioritising those conversions. There are a number underway at the moment. I will take on notice the detail and come back to you with the status of Mount Barker.

Senator DEAN SMITH: You said there are a number of conversions underway. In South Australia?

Ms Caruso: Yes. As I understand it, we've been planning some around Murray Bridge in South Australia and the Spencer Gulf and Riverland areas.

Senator DEAN SMITH: So there are three projects underway in South Australia?

Ms Caruso: Yes. The engineering reports for the AM to FM conversions have been completed. We are preparing consultation documents. That's the next stage in the process. Once consultations are completed, the licensees are free to undertake their FM conversions.

Senator DEAN SMITH: So what is the frequency that we're talking about with regard to those three areas?

Ms Caruso: I don't know. I would have to take that on notice. Each area has quite specific planning arrangements. I'd like to get that detail for you.

Senator DEAN SMITH: The one that I'm most interested in is the 88.9 FM frequency.

Ms Caruso: Yes. As I said, I'll need to take it on notice and look at the detail for Mount Barker.

Senator DEAN SMITH: The challenge with taking it on notice for me is that it's not very exciting for those people who are watching and listening. I'd rather like to be able to give them an answer now if they are paying attention.

Ms Caruso: Apologies, Senator.

Senator DEAN SMITH: I'm happy to wait a few moments. There are lots of officials sitting behind you. I am curious if anyone behind you has the answer who might be able to come forward.

Ms O'Loughlin: Perhaps we could take a moment and ask our teams and come back to you to see if they've got the information.

Senator DEAN SMITH: A moment is more theatrical than taking it on notice.

Ms O'Loughlin: We'll see whether anybody in the room can actually help you. It is a quite detailed question. I will provide a bit of context. We're undertaking a large range of AM to FM conversions, or trying to assist the industry to do that, in our spectrum and licence area planning. It is quite complicated. There is in various areas across the country quite limited availability of FM frequencies, so it does take some time and quite a lot of engineering expertise to find frequencies for these AM stations that wish to convert to FM because of the better quality of FM services. So I take on board that it has passed December 2018, but they are quite complex matters.

Senator DEAN SMITH: My task is a simple one here. It's just to give listeners in the Mount Barker area some certainty about when it is that that conversion might happen so that
they can have greater confidence in the process. Obviously they were expecting it to have been completed by the end of 2018. That's not happened. Can you provide me with some information while we're waiting for the official, hopefully. What information at a general level is being provided to the community or community broadcasters to keep them up to date with the local area planning process? If someone can tell me how that relates specifically to Mount Barker, I would be most appreciative.

**Ms Caruso:** Yes. I will answer in general terms and we'll get you the detail for Mount Barker. Generally, in any of these conversion processes, there is a period of consultation that is not just for the interested and affected licensees. There are opportunities for other aspirant licensees to also be involved in those processes. As I understand it, we're probably talking here about a community broadcasting licensee who is interested in the Mount Barker area.

**Senator DEAN SMITH:** Yes. That's right, yes.

**Ms Caruso:** So they have the opportunity in the consultation processes to also be part of that. As I said, there's kind of a prioritisation that we're involved in here with moving on the AM to FM conversions. Community broadcasters, in one sense, are next in that tiered process of looking at different broadcasting interest needs. But I'll get you the detail about Mount Barker in particular.

**Senator DEAN SMITH:** Would it be a good use of my time if I wait a bit longer, Chair?

**CHAIR:** We'll go to Senator Chisholm.

**Ms O'Loughlin:** Senator, I think we do need a bit more time. We might try to get back to the secretariat later this afternoon for you if that would help

**Senator DEAN SMITH:** Great. I might pop back immediately after the afternoon tea break.

**Ms O'Loughlin:** As I mentioned, it's tied up. The temporary community broadcasting licence is a bit tied up with the AM to FM conversion, so it's quite a complex interplay.

**Senator DEAN SMITH:** Thank you. I appreciate that. Thank you.

**Ms Caruso:** Senator Smith, I'm told that the planning for Mount Barker is likely to be the second quarter of this year. So this is coming up in the next few months in terms of planning considerations for that area. There will be opportunities in that for the community broadcasting aspirants to be involved in those consultations. So it is coming up shortly.

**Senator DEAN SMITH:** So a resolution by the second quarter or starting then?

**Ms Caruso:** No. There will be the consultation process. Generally after that, we resolve the planning specifications. The broadcasters then essentially get the green light to proceed after that process. So there will be the opportunity for people in that area to become involved in our consultation in the second quarter.

**Senator DEAN SMITH:** Great. Thanks very much.

**CHAIR:** Excellent. Thank you.

**Senator CHISHOLM:** I want to ask some questions about the 5G spectrum auction results. For the purpose of the recent 5G spectrum auction, was Tasmania considered a regional or a metropolitan area?

**Ms Caruso:** I think it was considered a regional area. I'm just checking for you.
Mr Brumfield: Yes. Tasmania was divided into two parts. Metropolitan Hobart was considered to be a metropolitan area, and the rest of Tasmania was considered to be a regional area.

Senator CHISHOLM: Can I confirm that, in the recent 5G spectrum auction, the regional spectrum licences altogether were sold for around $680 million?

Ms Caruso: That's correct.

Senator CHISHOLM: And the metropolitan sold altogether for what—around $160 million?

Ms Caruso: That's correct.

Senator CHISHOLM: I want to refer to a passage from the previous estimates hearing when Senator Keneally asked:

Can I ask this then: was advice sought from ACMA on the design and timing of the auction following the announcement by TPG and Vodafone—

which was the merger. The ACMA official said:

I think it's fair to say that we gave careful consideration to events that were occurring in the marketplace, and we've decided to continue on the path that we were on. Unfortunately, while we're in the midst of the auction, I'm reluctant to speculate or provide any more information, simply because there is a risk of inadvertently disclosing information about the auction, which, for reasons of the design of the auction and the probity rules, we don't make available. That's the problem we've got and why we're being a little bit coy. There are perhaps some discussions we can more fruitfully have after the auction.

Given that the auction is now complete, I'm hoping to explore this further. Was advice sought from ACMA on the design and timing of the auction following the merger announcement by TPG and Vodafone?

Ms O'Loughlin: I might start with that. We carefully looked at that. The auction pathway had been set before the proposed or potential merger of TPG and Vodafone was announced. We very carefully looked at both the timing and the process that we had put in place for the auction. We felt that it should proceed on its current timeframe and in its current form.

Senator CHISHOLM: Did the minister have the option of delaying the auction?

Ms O'Loughlin: The auction timing was ours to make.

Ms Caruso: That was an ACMA decision. We had already been out in the market with effectively our marketing plan. We did consider the implications of a delay or proceeding. The view was at any stage in an auction process there can always be new information in the market and that we had designed an auction that hopefully would make 5G spectrum available. We proceeded on the basis that the auction was going to commence in November.

Senator CHISHOLM: But you did have the option of delaying the auction?

Ms O'Loughlin: We looked carefully and felt that there was no need to change our course.

Senator CHISHOLM: But it was an option?

Ms O'Loughlin: It was potentially an option, but it would have been very difficult and, as Ms Caruso said, it would have delayed the rollout of 5G right across Australia.
Senator CHISHOLM: Did ACMA have the option of modifying the auction parameters after the Vodafone-TPG announcement?

Ms Caruso: We'd already been out in the market with all of the auction parameters at that stage. We had also called for applications. At that point in the process, there is always a risk if you change that process for others who had sought to be part of the bidding process. So we looked at all of the issues of delay and proceeding and formed the view that it was still very beneficial to proceed with the auction and get 5G out in the market.

Senator CHISHOLM: Can you confirm that the spectrum will become available in full in March 2020, not 2019?

Ms Caruso: The terms of the licence start in March 2020. We have enabled early access arrangements for those bidders in the auction who are successful in getting spectrum. They do have the option of seeking early access arrangements provided that they don't interfere with existing licensees.

Ms O'Loughlin: I will add to that. Telstra has already taken up the opportunity and had an apparatus licence issued on 17 December covering Sydney and Melbourne to commence 5G services in those capital cities.

Senator CHISHOLM: So early access is for trials, and the spectrum is made available in full from March 2020?

Ms O'Loughlin: They do have full access to the spectrum under the early access regime. That just flows through to their licence starting in 2020.

Ms Caruso: To clarify: they are not trials. It allows the licensee to start providing services.

Senator CHISHOLM: Looking at the auction prices, it appears the regional licences have fetched a price at least five times more than the metropolitan licence.

Ms Caruso: That's correct.

Senator CHISHOLM: Is this consistent with the department's understanding of the auction results?

Ms O'Loughlin: I think it's always difficult, as we said at the last estimates, to speculate what an auction outcome might be. There were different parameters, of course. There were competition limits set in metropolitan areas. We found that the regional areas were highly competitive. That's why more money was paid for those spectrum allocations. When designing the auction, we look at a number of things. Firstly, we look at starting prices. We look at aiming to maximise the efficiency and competitive outcomes of the auction and the full utility of the spectrum for 5G. So in terms of outcomes, we believe that all lots were sold at auction, which means that we had no lots left over and we could facilitate the rollout of 5G services right across Australia.

Senator CHISHOLM: So the reality is, though, the regional ones were highly competitive because Optus was bidding alongside Telstra and the joint venture?

Ms O'Loughlin: There were four winners out of the auction.

Senator CHISHOLM: But the regional ones had the three big players competing, which the metro ones didn't.
Ms O'Loughlin: There were competition limits set by the ACCC for the metropolitan areas.

Senator CHISHOLM: Sorry?

Ms O'Loughlin: There were competition limits set by the ACCC for the metropolitan areas.

Senator CHISHOLM: Sure. What I'm saying is that the regional ones achieved a better price because they had the three big players bidding.

Ms O'Loughlin: I think it is important to realise that each of the players would have made a decision in the 3.6 gig auction, bearing in mind their spectrum holdings in other bands of spectrum. Optus already holds an enormous amount of spectrum in other bands. So each of them bid on a different starting point. So I don't think it's fair to say you are looking at apples and apples. I'll ask Ms Caruso to expand on that.

Ms Caruso: A number of those regional lots encompassed areas close to metropolitan areas. I'd suggest that they were very attractive products for a number of the bidders. It is true that there was more competitive tension in the auction in the regional lots.

Senator CHISHOLM: Can ACMA confirm that the metropolitan licence prices effectively tracked the reserve price that was set prior to the auction?

Ms Caruso: That's true.

Senator CHISHOLM: Can ACMA confirm that the regional licence prices exceeded the regional reserve price by a factor of 15?

Ms Caruso: That is true. There was great variation, though, in the prices achieved for the regional lots. I would suggest that very different views of their attractiveness were being expressed by the bidders in the auction.

Senator CHISHOLM: So the regional prices greatly exceeded the regional reserve price?

Ms Caruso: That is true.

Senator CHISHOLM: How many other spectrum auction—

Ms O'Loughlin: Sorry, Senator. I want to interrupt there. A reserve price in spectrum auctions is not like a reserve price when you're buying a house. It's very much what we call a starting price. So it is usual, or not unusual, for the auction outcome to not reflect the starting prices.

Senator CHISHOLM: Okay. I just can't understand why there's such a big discrepancy when the metropolitan prices achieved basically what the reserve price was and there are instances in the regional pricing where it was 15 times more than what the reserve price was.

Ms Caruso: We've said there was a lot more competitive tension in the auction for those regional areas. They did encompass population centres and areas around the metropolitan areas that would be important to operators wanting to roll out their networks. So they were an attractive proposition. I suggest that is what is driving the price. I think when we see, though, the results at the auction, we see that they're very much in line with the sort of prices that we've seen in other recent international auctions. So, in terms of average prices, what we saw in Australia was very much in line with recent 5G related bands in other countries as well.

Senator CHISHOLM: How can you compare apples with apples?
Ms Caruso: Other countries offer similar 5G bands for auction. They may have a similar number of bidders. We have seen similar average prices being expressed in those recent auctions.

Senator CHISHOLM: Can you provide some evidence of this?

Ms O'Loughlin: Yes. Certainly.

Ms Caruso: Yes, we can. It's a matter of record in terms of auction results reported from other countries.

Ms O'Loughlin: I will add from my notes. Allocation limits affected the amount of spectrum a single bidder could acquire in the auction. That goes to the competition limits that we mentioned earlier. There are also different limits for metropolitan. They were limited to 60 megahertz of spectrum that they could purchase, and regional areas were 80 megahertz. That affected operators differently depending on their existing holdings across the 3.4 to 3.7 gig range. That is what I mentioned earlier. The desire for networks to buy this spectrum was always seen in the context of their other spectrum holdings. Regional lots enabled wide area coverage. Several of the regional lots have densely populated regions, as Ms Caruso mentioned, around metropolitan areas. Therefore, they were likely to have been considered important for network rollout in metropolitan areas. Internationally, the 3.4 gig to 3.8 gig bands that have occurred over the last 18 months have achieved results between 0.53 to 0.56 cents per megahertz per head of population. The average price paid across our auctions of 29 cents per megahertz per head of population is broadly consistent with the results achieved in most recent auctions of equivalent spectrum overseas, such as Korea and Italy.

Senator CHISHOLM: So if there was more competitive tension in the regional areas, wouldn't the merger that was announced have provided some pause for thought because it reduced competitive tension in the metropolitan lots?

Ms O'Loughlin: There were already competition limits and smaller amounts of spectrum available in the metropolitan lots. We were also making sure that we could clear all the spectrum.

Senator CHISHOLM: Can you point to a previous spectrum auction held in Australia where the regional price fetched six times the metropolitan price?

Ms O'Loughlin: I think we would have to take that on notice. I'm not aware of any.

Ms Caruso: I'm not aware of any. I think each auction is unique—

Ms O'Loughlin: Yes.

Ms Caruso: in terms of who is interested in the spectrum, what its purpose is and the strength of competition in each auction. So I'm not aware of any similar results. Each auction is quite unique.

Senator CHISHOLM: Minister, did you have the power to delay the auction?

Senator Fifield: The advice that I received was that it was a matter for ACMA. I don't possess the power to direct ACMA once an auction process has been initiated.

Senator CHISHOLM: Is that your understanding, Ms O'Loughlin?

Ms O'Loughlin: Yes.

Senator CHISHOLM: So the minister doesn't have the power to stop it?
Ms O'Loughlin: That's my understanding.

Senator CHISHOLM: In terms of other spectrum auctions. That will be taken on notice?

Ms O'Loughlin: Yes. I agree with Ms Caruso that there is a danger. It's very hard to find any apples and apples in the spectrum auction space, but we'll certainly provide information for you.

Senator CHISHOLM: Does the minister have the power to set a reserve price?

Ms O'Loughlin: Yes. At the 700 meg auction undertaken in 2013, the then minister set the auction price.

Senator CHISHOLM: I know you gave some explanation previously about the difference between the regional and metropolitan prices. Could you go into a bit more detail on that?

Ms Caruso: We set a higher reserve price for metro areas and a lower price for the regional areas. So it's true that the auction results reflected the reserve price in the metro areas and went higher than the reserve price in the regional areas.

Ms O'Loughlin: Again, setting reserve prices or starting prices for us is a balance between attracting the maximum number of bidders and setting the basis for a competitive auction without overly increasing the risk of unsold lots.

Senator CHISHOLM: So could the minister have exercised a power to set a reserve price after the merger announcement?

Ms Caruso: We had already called for applications at that stage. The auction process was well in train. In the application process, we'd already set that reserve price, so that gives bidders time to organise with their banks access to their financing arrangements for the auction. So once you've started that process, it's a significant impost on the potential bidders if there is a change in that process.

Senator CHISHOLM: On reflection, given the outcome of the auction, do you think that there is something wrong with the design of the auction?

Ms O'Loughlin: Senator, no. I don't think we do.

Ms Caruso: No. Our view is that in any auction we're aiming to put spectrum to market to allow people to express their view of the value of that spectrum. In this case, we had all lots sold. That means that spectrum is now available for 5G. We're starting to see the early signs of that with plans from the successful bidders. We also got a new entrant into the market in this auction with Dense Air, who's got a new innovative business model for Australia. They're operating in other markets overseas. It was a new entrant. All the spectrum was sold. From our perspective, it is an efficient auction where the spectrum is fully utilised.

Senator CHISHOLM: It would be fair to describe them, though, as a small player?

Mr Brumfield: That remains to be seen.

Ms Caruso: We don't yet know exactly how they are going to deploy in the Australian market. We've heard of their plans. Essentially, they would look to be a wholesale provider that will operate in metro areas. That's the model that they've talked about for operations in Australia and that's the model that they're deploying overseas.
Senator CHISHOLM: I want to be clear on the minister's power in this. He has a legal power to set a reserve price, but that would have to be before the auction is initiated.

Ms O'Loughlin: I think it would be most efficient and less disruptive to the process if that reserve price was set well before we started off on the auction process, and that is what has occurred previously.

Senator CHISHOLM: I wasn't asking what would be disruptive or not. I was asking about what would be legal or not.

Ms O'Loughlin: Well, I can take that on notice. Normally, it has happened well before the auction process has started.

Senator CHISHOLM: What would prevent people from announcing joint ventures months before spectrum auctions if the regulator is saying it's too hard to delay an auction?

Ms O'Loughlin: We didn't say it was too hard to delay the auction. We said we looked to the circumstances around the joint venture. We looked at the path we were on and the process we were going through. Our assessment was that we did not need to change that.

Senator CHISHOLM: Minister, are you satisfied with the financial outcome of the auction given that the regional price that was achieved far outweighed what was achieved for the metropolitan price?

Senator Fifield: Well, the revenue or the proceeds raised for the Commonwealth are a function of the auction. So the proceeds are what the proceeds are. You set the parameters for the auction. ACMA sets the reserve price. The bidders who wish to bid and the proceeds generated are a function of that.

Senator CHISHOLM: Were you surprised that the regional price far outweighed what was achieved for the metropolitan price?

Senator Fifield: Senator, I don't pass a judgement because—

Senator CHISHOLM: But it's revenue for the government. Surely you would have an opinion on it.

Senator Fifield: I don't pass a judgement because the proceeds are of an auction of a function of the bids that are placed. So I can't really add to that.

Senator CHISHOLM: Are you aware of previous auctions where a similar result occurred—when the regional money that was received far outweighed the metropolitan money?

Senator Fifield: I will defer to officials on the history of spectrum sales. But I think, as has been indicated, you can't just simply look at that factor in isolation from what the competition limits are, how many people are bidding and for what. That's not something that you can make a straightforward comparison and assessment on.

Senator CHISHOLM: Thanks. I want to ask a few questions about satellite spectrum at 28 gigahertz. Can ACMA describe what work is currently underway on the gigahertz band?

Ms Caruso: Yes. We've undertaken to date some consultations on various planning scenarios. We are looking to that band. It's identified as one of the millimetre wave bands for 5G. We're looking to the 28 gigahertz band for 5G purposes. There has been a lot of interest expressed to date from a range of users, which includes mobile operators, the satellite industry
and a number of point-to-point and point-to-multipoint users in that band. In terms of our process, as I said, we consulted late last year on some early planning scenarios. It is our intention that we consult again on planning options. It is slated that in late March or early April we will issue a consultation paper on planning options. That's the next stage leading to a decision on what will be the configuration for the band.

Senator CHISHOLM: So that's basically the next steps once the consultation is completed?

Ms Caruso: Yes. Once the consultation is completed, we will reflect on the feedback that we get through that process and we will firm up decisions for the configuration of that band—essentially, the purposes for which the band will be used and the forms of use in that band. We will start to firm up options about how we think about allocating that band for millimetre wave.

Senator CHISHOLM: Is there an approximate time line on this? Are we talking months?

Ms Caruso: Yes. As I said, we are planning for late March and early April for a planning options paper. It will be probably later in the calendar year or early next year where we will firm up our decisions for the planning configuration for that band. That is the next step before we proceed to allocation. I should say that we've outlined time lines for these planning arrangements in our five-year spectrum outlook. We confer each year with the industry about our forward planning arrangements.

Senator CHISHOLM: And what was the motivation for initiating this body of work? Were there overseas developments?

Ms Caruso: There are. There is work going on in international spheres by the industry. They're doing work on industry standards and device standards for the 5G ecosystem of devices. The World Radiocommunication Conference, basically, is the international body that looks at the harmonisation and standardisation of bands for different spectrum uses. There's an intergovernmental aspect to the World Radiocommunication Conference. A lot of industry development work is going on around device standards.

Senator CHISHOLM: Which users currently occupy this band?

Ms Caruso: There are some satellite users and point-to-point and point-to-multipoint users in the band at the moment.

Ms O'Loughlin: Some class licence stations as well.

Senator CHISHOLM: Sorry, I missed that?

Ms O'Loughlin: Some class licence earth stations. There are incumbents in the band.

Senator CHISHOLM: And what would those current users do if the band were earmarked for a different purpose?

Ms Caruso: Well, that's kind of theoretical. In any of those processes where we form a view that there is a new or different purpose for the band, we look to see the impact on incumbents on the band and essentially go through processes to find them alternative homes in the band. But we're not at that stage yet. We're still consulting with the industry. As I said, there has been a range of interests expressed in that band from very disparate users. So we're looking at all of that at the moment, and we'll consult further with industry.

Senator CHISHOLM: So 26 gigahertz is already being earmarked for 5G. Is that correct?
Ms Caruso: Yes. Both bands essentially are identified as millimetre wave bands for 5G. But there are many different ways 5G services can be delivered. It can be mobile broadband. It can be fixed wireless broadband. It can be satellite broadband. Multiple technology choices and paths can be taken.

Senator CHISHOLM: And what are the contestable uses for the 28 gigahertz band in the future?

Ms Caruso: Well, the interest that we are seeing is from the mobile broadband industry, from the satellite industry and from point-to-multipoint and point-to-point users. So my shorthand for that is terrestrial wireless.

Senator CHISHOLM: Presumably there is plenty of spectrum which is available or can be made available in the millimetre wave bands for 5G. Is there something specific to 28 gigahertz that makes it a more attractive band relative to the millimetre wave band for 5G use?

Ms Caruso: We’ve looked across both the 26 gigahertz and the 28 gigahertz band. We are looking at them in concert. They are at slightly different stages in our planning process. We think it's important, in looking at the future use of those bands, that industry has a really good idea from us about the potential uses across both bands. So your question about whether there are contestable uses I think applies equally to 26 gigahertz and 28 gigahertz. Our timing for looking at both those bands is on a similar track so that industry gets a good view across both bands and how both bands could be used for 5G in all its various forms.

Senator CHISHOLM: Where did the global bodies sit on the future use of 28 gigahertz? Has it been formally earmarked for 5G, or is it earmarked for satellite applications?

Ms Caruso: I would say that there are 5G variants in the 28 gigahertz band. For satellite, the global bodies are looking at all of that at the moment. It's fair to say that different countries around the world have taken different approaches across both the 26 gigahertz band and 28 gigahertz band. The US has taken a particular stance on 28 gigahertz. The Europeans are looking to 26 gigahertz. There's no unified view across the globe about how those bands will be used. Each jurisdiction is forming its own view. But, as I indicated earlier, there's a lot of standardisation work going on both in industry and in these global forums to look at millimetre wave bands generally.

Senator CHISHOLM: I was actually just about to ask what the Americans are doing with the 28 gigahertz and what the Europeans are doing. I don't know if you can elaborate on that.

Ms Caruso: Not in a whole lot of detail. I do know that they are on different tracks. I think the Europeans have taken one approach and the Americans quite a different approach. I think it also reflects the arrangements that they have had in place and the incumbent users in those bands in those countries. I'm saying that I think they've got different histories. I think that has also shaped their view about how they proceed in those bands.

Senator URQUHART: I have a few questions on WISPs. Can you confirm that licences won at auction commence in March 2020?

Ms Caruso: Yes.

Senator URQUHART: Is that the start date for 5G services in Australia?

Ms Caruso: In the 3.6 band that we just auctioned that we were talking about before.
Ms O'Loughlin: As we mentioned, successful bidders are allowed to get early access to that spectrum. For example, Telstra has already applied for early access to the spectrum to start rolling out their services.

Senator URQUHART: Great. What date will the seven-year period for existing users—that is, the WISPs—start from?

Ms Caruso: Sorry, the seven-year reallocation period operates up until 2025. That is what I understand.

Senator URQUHART: So 2025?

Ms Caruso: Yes.

Senator URQUHART: So why doesn't that start from March 2020 when the licences are granted? What is the reason?

Ms Caruso: What is happening is that the new licences in the 3.6 band can operate. We've got an extended reallocation period that operates so that the WISPs essentially have certainty for that period of time up until the 2025 date. The new operators, if they are going into those areas, need to be negotiating with the WISPs for their use in the band during that seven-year period.

Senator URQUHART: I think, Ms O'Loughlin, you said that Telstra are rolling out the 5G services. Who are they rolling them out to? Do 5G handsets actually exist?

Ms O'Loughlin: I think it's fair to say that they're putting together their network capacity in Sydney and Melbourne. From my last discussion with Telstra, I think they are anticipating that at least the first generation of 5G phones will hit the market some time later this year.

Senator URQUHART: And who to?

Ms O'Loughlin: Generally, they will be to consumers.

Senator URQUHART: Can you give an update on negotiations with WISPs regarding the provision of alternative spectrum?

Ms O'Loughlin: Yes. Certainly. As you know, I wrote to the WISPs back in November last year and invited a discussion with those licensees on a number of things. We had a very constructive response from WISPAU in December last year. It indicated its concern about the extent to which, in the reallocation period, no new licences would be issued. But it had interest in progressing the availability of the 3.3 to 3.4 gigahertz bands and the 3.7 to 4.2 bands. On 18 December last year, I also wrote to the successful 3.6 gigahertz auction winners to encourage them to commence discussions with the incumbent licensees so that that could benefit both parties, which I had committed to them previously. I will ask Ms Caruso to give you an update.

Ms Caruso: Certainly. We've taken other actions. In December last year, we updated some of the frequency assignment arrangements in the 5.6 gigahertz band. That was one of the bands that we had identified as a potential future home for the WISPs. So those arrangements are in place. We understand that a number of the WISPs are looking at that band. To date, we're not aware that any of them have taken up the licensing options in that band, but they have been investigating those options. As Ms O'Loughlin said, the WISPs have put the view to us that they are very interested in the 3.7 to 4.2 gigahertz band. We have slated to start further work on that band from mid-year. We will be meeting with the WISPs in early
March to talk through their issues of interest and other bands that might be useful for us to identify in our future work program.

Senator URQUHART: The next meeting is in early March. When was the last meeting held, particularly on this topic? Was it December or was it by letter?

Ms O’Loughlin: That was by letter.

Ms Caruso: No. We have been communicating with the WISPs by email and letter.

Senator URQUHART: So has there been a meeting, or has it just been that type of communication and the next meeting is in March?

Ms Caruso: I have not met with the WISPs. I understand that there was a meeting with WISP representatives, I think, in the middle of last year.

Senator URQUHART: And so the next step is that there is a meeting in early March?

Ms Caruso: Yes.

Senator URQUHART: And then what from there? What are the next steps?

Ms Caruso: We’ll continue with the mitigations that we had identified previously. That was the 5.6 band. The 28 gigahertz band was another band that we had identified as a potential home for the WISPs. I mentioned in earlier responses that that is a band that we are looking to do further consultation on planning options in late March and early April. There’s more work to come on the 3.7 to 4.2 band that the WISPs identified. They are encouraging us to look further at the 3.3 to 3.4 band as well. That is an area that they are interested in. There may be other issues that they want to bring to our attention. I guess from our perspective, it is useful to meet and hear from WISPs and WISP members about other aspects of spectrum that they are interested in.

Ms O’Loughlin: I think we would probably put it in terms that we expect to have a continuing dialogue with WISPs over the coming years as we work through the lengthy reallocation period to see all the different ways that we may be able to accommodate their needs.

Senator URQUHART: Thank you. Can you step me through the pros and cons of the 5.6 gigahertz spectrum for WISPs? Does the Bureau of Meteorology still have concerns about sharing their spectrum with the WISPs?

Ms Caruso: As I said, we updated the frequency assignment arrangements in the 5.6 gigahertz band. That is a band where the Bureau of Meteorology has some radars at the moment. So the arrangements that we put in place in December reflected some protection zones for the Bureau of Meteorology. There are three sites reserved for them in New South Wales. There is part of that band that is protected for BoM. So all of that was essentially sorted out before we updated any of the frequency assignment arrangements. That then gave additional flexibility to the WISPs if that was a band that they were interested in looking at. We are continuing to work with the BoM on their future needs. They have identified some other parts of the spectrum that is of interest to them for their future plans. We are in regular contact with BoM about their ongoing spectrum needs.

Senator URQUHART: Okay. Have you given the BoM an undertaking for a 10 megahertz reservation in the 5.6 band?
Ms Caruso: As I said, the arrangements that we put in place in that 5.6 band does include three areas in New South Wales that are reserved for the BoM radars. There is part of the band that is for their use.

Senator URQUHART: Why just New South Wales?

Ms Caruso: That is the site they are interested in. I think it is to do with the way that they've deployed their radar network. BoM has more sites available, but they are three areas that they were interested in expanding into. So they have been given additional spectrum to expand into them.

Senator URQUHART: So they've got the additional areas in New South Wales. Will that have an impact on the bandwidth that's available for WISPs and other users?

Ms Caruso: The arrangements we've set up essentially give BoM the spectrum that they were interested in and a place to expand. There is also spectrum that is now available for the WISPs in that band that wasn't previously available. We are waiting to see which of the WISPs takes up that offer.

Senator URQUHART: So is the 5.6 gigahertz band suitable for wireless broadband services?

Ms Caruso: The services that the WISPs are using is terrestrial wireless.

Senator URQUHART: So is it correct that there will be a reduction in performance for WISPs using the 5.6 gigahertz band compared to the 3.6 band?

Ms Caruso: I have not heard that. That issue has not been put to me in those terms. I'm not aware that that has been raised with us as a particular issue.

Ms O'Loughlin: That may be something that we take up with WISPs when we meet with them.

Senator URQUHART: Okay. That would be great. Thank you. So will WISPs incur a cost in transitioning from the 3.6 to the 5.6?

Ms Caruso: Every time any company takes up new spectrum or updates their technology, there is, I guess, a cost to retuning to the particular frequency.

Senator URQUHART: Have you done an analysis of that?

Ms Caruso: There was information that we got from the WISPs at the time we were looking and making assessments around the 3.6 gigahertz band. They gave us quite detailed information about the cost impact on WISPs. We made that information public as part of our consultations and our deliberations when we were considering reallocation of the 3.6 band.

Senator URQUHART: I will leave my questioning there. Thanks.

CHAIR: Senator Chisholm, do you have any more?

Senator CHISHOLM: Yes. I want to ask about the Regional and Small Publishers Innovation Fund. Minister, could you provide an overview on the time line of the Regional and Small Publishers Innovation Fund? When was the fund announced, legislated and set up by ACMA? When were applications first called, and when was the first round of grant recipients announced?

Senator Fifield: I'll ask officers who are more likely to have a time line before them to assist you, Senator.
Ms O'Loughlin: Thank you, Minister. Senator, I'm not quite sure I have all of those moments, but I'll give it a go. The Department of Finance approved the guidelines for the program on 20 June 2018. ACMA, the authority, agreed to those guidelines and the associated application form on 21 June 2018. Applications for round 1 opened on 27 June. The applications closed on 10 August. There was an eligibility and merit assessment process between 13 August and 14 September. The authority reviewed applicant eligibility formally on 6 September. The advisory committee, who were appointed to a merit review, undertook that merit review between 18 and 19 September. The authority considered the final eligibility assessment on 20 September. That also included a verbal report from the advisory committee to the authority to inform its decision-making. ACMA considered the decision on applications as an authority on 18 October. We advised the minister on 13 November. To coordinate announcements with the other two programs associated—the cadetships program and the scholarships program—the minister announced the outcome of the funding round on 21 December. We're currently in negotiation on the funding agreements to grantees. We expect to conclude them over the next few weeks.

Senator CHISHOLM: Minister, could you provide an overview of the funding pool available and how much has been expanded to date?

Senator Fifield: I will ask officers to update.

Ms O'Loughlin: The fund consists of $16 million per annum for three years. The first round funding committed $3.6 million, so there's money left over in this financial year, and then there's the unspent money in the next two financial years.

Senator CHISHOLM: So it only used $3.6 million of the $16 million available?

Ms O'Loughlin: That's correct.

Senator CHISHOLM: So less than a quarter?

Ms O'Loughlin: That's right.

Senator CHISHOLM: Are there any reasons why that was so unsuccessful?

Ms O'Loughlin: Yes. I think it's fair to say that it's the first round of a funding round which is designed to encourage innovation in the workings of regional and small publishers. From our point of view, we did find that many of the publishers found the eligibility criteria difficult to grapple with. In my experience, I don't think that is that unusual, because we are dealing with a lot of quite small businesses. What we heard back from applicants is that they would have liked more advice from ACMA to help them through the process. A lot of the things that came forward, to be honest, were business as usual; they didn't fit the eligibility criteria. We also took the advice of the advisory committee, who really only focused on those 29 grants that we actually funded in round 1.

Senator CHISHOLM: I will probably expand on that a bit. Did the set-up and implementation of this fund meet all its milestones, or was there some delay? If so, why?

Ms O'Loughlin: I don't believe there was a delay. In some respects, our feedback from the applicants is that we might have gone a bit too fast for them. So they would have liked a bit more time from us in between when we announced what the application was and when they needed to get the applications to us. I'll ask my team whether they've got anything to add on that.
Senator CHISHOLM: Does that money now just roll over into the next financial year?

Ms O'Loughlin: We're talking with the department about what purpose that money might be put to in this financial year and whether or not they have the capacity to, for example, do another round very quickly.

Senator CHISHOLM: When will that decision be made?

Ms O'Loughlin: Pretty soon. In the coming couple of weeks, we would expect.

Senator CHISHOLM: Any comment from the minister or Mr Mrdak about that?

Senator Fiffield: We would like to be able to facilitate another round.

Senator CHISHOLM: Ms O'Loughlin, would you be able to provide an overview of ACMA's role in relation to the administration of the fund?

Ms O'Loughlin: Certainly. The guidelines for the program were developed by the department and provided to ACMA. Our role really is to run the funding round—to develop the application form, to open the round to the sector, to gather applications back from the sector, and to go through the eligibility criteria. There are eligibility criteria and merits criteria. Our job was to go through the eligibility criteria and then work with the advisory committee on the merit criteria as well and develop that up into a package for decision-making by ACMA.

Senator CHISHOLM: Is it correct to say that ACMA performs its role independently and at arm's length from government?

Ms O'Loughlin: Yes.

Senator CHISHOLM: Why is it important that the administration of a fund for journalism by a Commonwealth entity be done independently and at arm's length from the minister?

Ms O'Loughlin: I think that was part of the decision before it was handed to ACMA.

Senator CHISHOLM: So you don't think it has anything to do with trying to separate journalism from—

Ms O'Loughlin: I think with anything that involves content and journalism, there is a very strong expectation that it will be slightly independent of government.

Senator CHISHOLM: Do you have any comment on that, Minister?

Senator Fiffield: No. I agree with the chair. As you probably recall, when the government was talking to colleagues across the spectrum in the context of media reform, this arrangement is something that was made clear by colleagues across the spectrum. They thought it would be an appropriate way to administer this program.

Senator CHISHOLM: What mechanisms are in place to ensure ACMA administers the funds at arm's length from government?

Ms O'Loughlin: The ACMA has administered it independently from government, as our role is to be the independent regulator.

Senator CHISHOLM: But I suppose that the independent expert advisory committee—

Ms O'Loughlin: The expert advisory committee was extremely helpful. It is people drawn from journalistic backgrounds. We found them extremely helpful. Megan Brownlow from
PwC, Louisa Graham, Anna Reynolds, Peter Fray, Michael Malone and John Angilley are all very experienced media and journalism practitioners or academics. We found that they gave an insight into the publishing space that we had not had at the authority level. That was a huge bonus for us.

Senator CHISHOLM: Minister, on 21 December 2018, you announced by media release that ACMA had awarded grants for 29 projects to 25 successful applicants nationwide, with a mix of regional and metropolitan proposals funded. Your media release stated that the list of successful applicants was available on ACMA's website, and you provided a hyperlink. Minister, are you aware whether this timing created difficulties or inconvenience for some grant recipients given the proximity of the announcement to the summer holiday period?

Senator Fifield: I'm not aware.

Senator CHISHOLM: Ms O'Loughlin, are you aware whether this timing created difficulties or inconvenience for grant recipients?

Ms O'Loughlin: I think it's fair to say that recipients always want earlier notices than sometimes you can give them. But we are working through the grant processes with them now.

Senator CHISHOLM: What about the timing? Did the timing of the announcement cause any inconvenience for ACMA?

Ms O'Loughlin: Not really for us. It was getting close to the end of the year, so we would always be taking up the negotiation of grants in that environment.

Senator CHISHOLM: Was the media release the first time the recipients were notified of the decision?

Ms O'Loughlin: Yes.

Senator CHISHOLM: So how were the successful applicants notified?

Ms Ritter: All of the individual applicants were advised through their preferred communication—generally via email.

Senator CHISHOLM: And that came from ACMA?

Ms Ritter: That's correct.

Senator CHISHOLM: And what about the unsuccessful applicants?

Ms Ritter: The same thing.

Senator CHISHOLM: Minister, why did you announce the outcome of the ACMA process on that date?

Senator Fifield: It's the date that we chose to announce, Senator.

Senator CHISHOLM: Ms O'Loughlin, when did ACMA decide the successful grant recipients that were announced on 21 December?

Ms O'Loughlin: As I said in my opening remarks, ACMA made its decision in October and advised the minister in the middle of November.

Senator CHISHOLM: So there was at least a month's delay from the advice going to the minister's office before the announcement was made?
Ms O'Loughlin: Yes. I think that was aligning with the outcomes of the regional journalism scholarships and the cadetships program, which was being undertaken by the department. So it was lining all those up.

Senator CHISHOLM: Ms O'Loughlin, how come ACMA didn't announce the outcome of its own process?

Ms O'Loughlin: We were in discussions with the department and the minister. There was a preference. Given that it was the government's package of initiatives, they were keen to announce the outcomes of that package collectively.

Senator CHISHOLM: Is that normal practice?

Ms O'Loughlin: We've never run a grants funding round before. This is the first one we've run.

Senator CHISHOLM: Given the importance of administering this fund independently of the minister, wouldn't it follow that ACMA should announce its own decision?

Ms O'Loughlin: We had no concerns. We had made our decisions. It was only a matter of how they were announced. There was a preference to have them announced as part of the broader package.

Senator CHISHOLM: So it was the minister's decision to announce the recipients?

Ms O'Loughlin: Yes.

Senator Fifield: Yes.

Senator CHISHOLM: Do you feel it was appropriate that you would announce the outcome of an independent process by ACMA?

Senator Fifield: The important thing is that the process is independent, which it was.

Senator CHISHOLM: But surely if it were independent, they would be the ones to announce it?

Senator Fifield: As the chair said, this is the first time that ACMA has had a program of this nature. It could have been announced by ACMA. It could have been announced by me. As the chair said, this particular program was a function of, and the creation of, the media reform process. My department had oversight of the guidelines, so I do think it was appropriate.

Senator CHISHOLM: Ms O'Loughlin, why were the majority of successful grant recipients from Victoria?

Ms O'Loughlin: The largest number of applications was from Victoria. Victoria represented 48 per cent of the applications submitted. We think, although we don't know for sure, that was mainly because there was a very active push by the publishers association in Victoria to encourage their members to apply to the fund.

Senator CHISHOLM: So is ACMA confident that the applicants who received assistance with their applications and who were ultimately successful as a result of the assistance they received will have the requisite skills to execute their applications?

Ms O'Loughlin: If I understand your question, it is whether we have confidence that the successful applicants will be able to deliver on what they've proposed?
Senator CHISHOLM: Given you've identified that one of the reasons why there was a lot of success out of Victoria is that they were helped with their—

Ms O'Loughlin: I'm not quite sure that they were helped with their applications. They were encouraged to apply by their local press association. There is nothing before us at the moment that causes me concern that they won't deliver on the projects for which we are funding them.

Senator CHISHOLM: So you're confident that they possess the skills to realise their applications when they are left to their own devices?

Ms O'Loughlin: Part of the application process was to give us comfort and to give the advisory committee comfort that they had a business plan in place to deliver on the project for which they were being funded.

Senator CHISHOLM: Did ACMA consider applications on their merits alone, or did ACMA have regard to other criteria, such as ensuring the spread of locations across Australia?

Ms O'Loughlin: Our job was to review the applications against the published eligibility criteria and to then review them against the assessment criteria.

Senator CHISHOLM: Has ACMA received any feedback about the usability of its application process? If so, what is the nature of that feedback? How is ACMA responding to it?

Ms O'Loughlin: We have received feedback. I will ask my colleagues if I don't get this quite right. I think many of the applicants would like more guidance in the application form about the level of detail that is required in the application. They would also like some more advice general advice from us about what we are looking for in the program funding. As I mentioned, really what potential applicants were calling for is us to provide more education and more information.

Ms Zurnamer: I think another key issue is that applicants would have liked a bit more time, as has been mentioned earlier.

Senator CHISHOLM: Has ACMA received any feedback or complaints from applicants who feel they had a similar application to a successful one but were not successful?

Ms Zurnamer: We have received a couple of pieces of feedback from some applicants who queried the basis of our decision. Yes, that's correct.

Senator CHISHOLM: What was the criteria for applications?

Ms O'Loughlin: The eligibility criteria were that they must be an incorporated company. There were turnover thresholds. Applicants must have an annual average turnover of more than $150,000 but less than $30 million. There was a primary purpose test. Applicants must be a publisher or content service provider whose primary purpose is the production of public interest journalism with an Australian perspective or whose proposed grant project relates directly to the production of public interest journalism with an Australian perspective. There's an Australian residents test, an independence test, a control test and some clarification about the eligibility of broadcasters. There is a criteria around editorial guidelines and that they must have complaints processes in place. They are the eligibility criteria. Once you are eligible on them, we look at the assessment criteria, which is that the proposed project is...
needed to enable the applicant to develop and trial sustainable models for the provision of public interest journalism. There is the quality of the application and the quality of the outcome so that we can be assured that public money is being spent efficiently. It is how effective we think the project is in terms of the intended outcomes of the fund and that there is value for money.

Senator CHISHOLM: Did the criteria change over time?

Ms O'Loughlin: No. These are the criteria that were provided to us.

Senator CHISHOLM: I want to clarify. ACMA is confident it is administering this fund independently from the minister?

Ms O'Loughlin: Yes.

Senator CHISHOLM: And has the minister been able to influence ACMA's decisions in any way?

Ms O'Loughlin: No.

Senator CHISHOLM: When I asked before about when the next round of applications will open, it was the minister who was saying hopefully soon.

Ms O'Loughlin: The original guidelines for the program were developed by the department.

Senator CHISHOLM: I'm just trying to get a clear understanding here. You can't have it both ways. If it is done independently but the minister is the one dictating the timetable, there's a real blur there.

Ms O'Loughlin: What I indicated previously was that the guidelines were developed by the department and provided to us. So what we're talking to the department about is what we learned from the first round. These issues that we've raised previously about better information flow from us and what would be the timing we allowed people to put in applications are the types of conversations that we're having.

Senator CHISHOLM: The problem is that when I talked before about the money—the $3.6 million out of $16 million—you deferred to the minister and the department about whether that would be used. So there's clearly blurring here about the money and the timetable of applications.

Senator Fifield: There's a funding allocation. Obviously, in administering this program, ACMA have learned lessons. The department has responsibility, I think in association with the Department of Finance, for determining program guidelines. If there are adjustments needed to program guidelines, in light of the experience of ACMA and the advice of ACMA, they will be made so that we can have a further round which will better meet the needs of the applicants.

Senator CHISHOLM: But who will decide whether there is another round before the end of this financial year?

Senator Fifield: That's something that will be done in concert. ACMA provides advice on their experience and their feedback. The department will look at those guidelines. Changes in program guidelines, I understand, need to be approved by the Department of Finance.

Senator CHISHOLM: But who will make the call?
Senator Fifield: If that occurs. Well—

Senator CHISHOLM: Is it you or is it ACMA? This is the problem.

Senator Fifield: ACMA administer the program according to the guidelines. They make assessments according to the guidelines, so there's a division of responsibility.

Senator CHISHOLM: So you will make the call, then, if there's another round this financial year?

Senator Fifield: Well, we want to see ACMA in a position to undertake another round; that's correct.

Senator CHISHOLM: But ultimately that would be the minister's decision, if that were to occur. I don't see why this is that difficult.

Senator Fifield: It's not difficult. I'm just explaining that there are different roles and functions. I, as minister, can't unilaterally declare and change program guidelines. They need the approval of the Department of Finance. So ACMA has a particular role. I have a particular role. The Department of Finance has a particular role. That's how government operates. So it's not a unilateral declaration by me. It's working through the advice and the recommendations of ACMA through those relevant parts.

Senator CHISHOLM: But who would give the final go-ahead once those other items are in place? Who would give the final go-ahead for another round to occur?

Senator Fifield: Well, that would be a decision of government.

Senator CHISHOLM: So a decision of the minister?

Senator Fifield: That would be a decision of government. As I'm explaining, there are different decision points.

Senator CHISHOLM: Sure. But once they are ticked off—

Senator Fifield: Then it is over to ACMA.

Ms O'Loughlin: It's very similar to the process we've gone through to date. For any grants funding programs, the guidelines need to be ticked off by the Minister for Finance. Once they were ticked off by the Minister for Finance, ACMA took those guidelines and ran with them. So we opened the applications. We ran the process. When we got to the end of it—and you raised this earlier—we were concerned that we weren't able to allocate the full amount of money, so we began a discussion with the department about what we had learned. That's where we are at the moment—about whether or not there needs to be any changes to the guidelines. If those guidelines need to be changed, of course they would go through the department and through the Department of Finance to be approved. Once approved, they would be coming back to us to administer.

Senator CHISHOLM: Will ACMA hold a webinar for applicants?

Ms O'Loughlin: We're quite open to that idea.

Ms Zurnamer: We are looking at a number of ways of reaching out to applicants to provide wide and comprehensive education if there is another round.

Senator CHISHOLM: The preliminary report of the ACCC digital platforms inquiry poses the question as to whether the regional and small publishers jobs and innovation package should be continued. What is your understanding of that statement by the ACCC?
Ms O'Loughlin: It's probably a matter for the ACCC or, indeed, the government as the package was the government's.

Senator CHISHOLM: So it's not something that you've found, as chair of ACMA, that you've wanted to get more advice on?

Ms O'Loughlin: No. We have had lengthy discussions internally and with the ACCC about what is happening in news and journalism across Australia. The regional innovation package goes to some of those things. Obviously the ACCC's digital platform inquiry also points to the impact of the operation of digital platforms on news and journalism across Australia and, in particular, the impact on the availability of funding for quality journalism. We engaged with the ACCC on that. It's of strong interest to the ACMA as well. Obviously, we both administer this program, but we're responsible for cross-media laws, content, impartiality rules and all those things that come to news as well. We are also embarking on a project to look at news and journalism through the prism by which ACMA looks at things. We are looking at things like distinguishability in news, impartiality of news and diversity in news and localism. Over the coming months, we'll be kicking off some new processes and looking at those issues as well.

CHAIR: I think we are now done with ACMA. Thank you very much, Ms O'Loughlin and colleagues.

Ms O'Loughlin: Thank you, Chair.

[15:12]

CHAIR: We'll now move to program 1.1, digital technologies and communication services.

Senator O'NEILL: I have some questions for the department with regard to the NBN and their selling of services into enterprises, if that's okay. Who have we got at the table?

Mr Mrdak: Ms McNeill and I will start on that one if it's enterprise services.

Senator O'NEILL: Yes. Minister, I will go to you first. Can you confirm whether additional capital expenditure was set aside in the 2019 corporate plan to support NBN running fibre to enterprises? I've got the report here in front of me, so I'm hoping you might be able to point me in the direction.

Senator Fifield: I'll ask officers if they can point us to the relevant section. It may be something that we need to ask during the NBN component of estimates. If we can assist now, we will.

Mr Mrdak: I don't believe there was specific provision or any new provision in the corporate plan or in the peak funding arrangements for enterprise services.

Senator O'NEILL: I've been looking through here trying to find any reference to it in the corporate plan. It is a corporate activity that is underway; is that correct?

Mr Mrdak: This is the business enterprise activity?

Senator O'NEILL: Yes.

Mr Mrdak: It has always formed part of the NBN corporate plan and their business strategy, yes. But I'm not aware that anything in the last corporate plan involved any additional changes to peak funding to accommodate that.
Senator O'NEILL: Okay. My question wasn't really about peak funding. It was whether any additional capital expenditure was set aside.

Mr Mrdak: Not that I'm aware. Not in terms of government funding, no.

Senator O'NEILL: Minister, you're not aware of anything in this space?

Senator Fifield: In terms of how NBN allocate their capital within the corporate plan, we'll check with NBN. Mr Madsen, who on is his way, may be able to assist. If not, we'll ask NBN when they are at the table.

Mr Mrdak: In terms of their corporate planning and business planning for the NBN, there had always been a capital allocation for their business enterprises operations. I don't think that changed in the last corporate plan in terms of any additional amounts going to that, though, but I'll take that on notice.

Senator O'NEILL: Thanks, Mr Mrdak. Any further information from anyone who has arrived?

Senator Fifield: Mr Madsen has been in transit, so we might need to replay your question to him.

Senator O'NEILL: I gave the question to the minister, but he has sought assistance from the department. Could he confirm whether additional capital expenditure was set aside in the 2019 corporate plan to support NBN running fibre to enterprises?

Mr Madsen: My understanding is that there was additional capital allocated to enterprise services. That has assisted the company to enhance the quality of the services that it's providing.

Senator O'NEILL: Is that referred to anywhere in the plan?

Mr Madsen: Bear with me.

Mr Mrdak: We might come back to you on that, if that's okay. I think we'll check that and we'll cross-check that with NBN. I don't know if it's specifically referred to in the corporate plan.

Senator O'NEILL: Mr Madsen, you indicated that there was an additional amount. If you're looking for that reference in the plan, that would be great. What was the additional amount?

Mr Madsen: Perhaps I will search the corporate plan and try and find the reference. I can't recall the exact amount. If you bear with us, we'll see if we can find out.

Senator O'NEILL: And it should be in this plan or, if not, it would be in another document you could access?

Mr Mrdak: If it's not referenced in the plan, we'll check with NBN Co about what provision was made in this corporate plan for any increase in peak funding to accommodate that.

Senator O'NEILL: Okay. Mr Madsen, what is your general recollection of the quantum? It wasn't billions of dollars, I'm assuming.

Mr Madsen: I wouldn't like to speculate. I think we've said we'll have a look.

Mr Mrdak: I think it's best we check that.
Mr Madsen: We'll do our very best to come back to you.

Senator O'NEILL: Great. I have a couple more questions. Somebody might assist you behind the scenes, no doubt using the Internet. Minister, is the government supportive of NBN supplying services to enterprises?

Senator Fifield: Yes.

Senator O'NEILL: What is it that you think is good about that? Why is the government supportive?

Senator Fifield: Well, it's always been a part of NBN's plan and approach since its inception that it's able to provide services to corporates where that has been in the mutual interests of the organisation and NBN.

Senator O'NEILL: When you refer to the organisation there, what are you referring to?

Senator Fifield: I don't want to pick a particular company and the particular business that NBN is providing services to.

Senator O'NEILL: I'm still not clear from your answer about the benefits of this focus by NBN.

Senator Fifield: It's a revenue opportunity for NBN.

Mr Mrdak: Clearly, like the rest of the NBN's investment, where the NBN is providing wholesale services, particularly on new fibre technology, that obviously has economic benefit. Providing wholesale services, often to support new growth areas or to support businesses, enables the introduction of essentially competition into markets and a new wholesale competitor into a market.

Senator O'NEILL: So it brings in some money to the company, really, in essence, is what you're saying?

Mr Mrdak: No. I was talking more about the broader economic benefits of the introduction of additional wholesale competitors into the market. They are providing those services particularly for businesses to be able to have fibre connections whereby they can then have competition at the retail level in the future in relation to the provision of services to their businesses.

Senator O'NEILL: Mr Mrdak, has the department identified any constraints on NBN supplying services to large businesses and enterprises?

Mr Mrdak: Well, obviously NBN's involvement in this market segment is determined by the requirement for where they do compete. Obviously, there is competitive neutrality wherever possible. They've clearly set that out in terms of the undertakings available to them. I will ask Mr Madsen to explain that.

Mr Madsen: That's correct. I will follow on from that. NBN is subject to non-discrimination obligations, which are set out in the Competition and Consumer Act. It applies to their residential and business services. It requires that NBN offers equivalent services to all retail service providers.

Senator O'NEILL: Thank you. I might have some more questions on notice about the detail there, but that's quite helpful. I understand that there has been some ambiguity as to whether the NBN Co are able to build enterprise fibre into—this is the key descriptor—non-
NBN greenfield areas. What is the department's view on this? Why is there ambiguity around this?

Mr Kathage: The government's policy with regard to new developments is set out in the telecommunications and new developments policy. That also describes the rules around NBN's ability to overbuild in non-NBN fibre areas. The rules are quite straightforward and are set out on our website. They specify that in the event that there is an NBN equivalent network in the area, NBN would seek permission or provide a business case to shareholder ministers for approval before overbuilding in those areas.

Senator O'NEILL: Right. So a business case is provided to the minister?

Mr Kathage: To shareholder ministers.

Senator O'NEILL: And must have the shareholder ministers sign off, which I understand is Minister Fifield and Minister Cormann. Is that correct?

Mr Kathage: Correct.

Senator O'NEILL: So they have to sign this off?

Mr Kathage: That's correct.

Senator O'NEILL: So why is there ambiguity there?

Mr Kathage: From the department's perspective there is no ambiguity. From time to time, there are questions raised about particular deployments. Those questions sometimes come to the department for response. We can provide some guidance in those circumstances. Are there particular instances that have come to your attention?

Senator O'NEILL: The ambiguity has come to our attention. I would like to clarify your position generally with regard to such requests. Do you have to seek agreement on a case-by-case basis?

Mr Kathage: The policy sets out that, in the first instance, NBN Co would seek permission on a case-by-case basis. It also allows NBN Co to write to shareholder ministers and outline a class of circumstances where they would seek to overbuild.

Senator O'NEILL: So it's not case by case after an initial case might determine an outcome. Is that correct?

Mr Kathage: Well, it could be both. NBN can apply to shareholder ministers on a case-by-case basis or it can apply to shareholder ministers on a class basis.

Senator O'NEILL: I'm struggling to understand what the approach might be if I were such a person seeking the permission. Isn't the process somewhat cumbersome and a little opaque?

Mr Kathage: I suppose our experience has not necessarily been that that is the case. From time to time, NBN Co will approach us for advice on how the policy applies. That advice is generally provided.

Senator O'NEILL: Minister, you've just indicated that the government supports the ability of NBN to serve enterprise. Why, then, are they having to seek approval on a case-by-case basis?

Senator Fifield: Because that's the TIND, as it's referred to. That is the acronym. It stands for.
Mr Kathage: Telecommunications in new developments.

Senator Fifield: That's right. The TIND policy. I think it has been a while since one of those has come my way. But where those circumstances do arise, the department consults with relevant parties, or I think I even write to the relevant parties to seek their input before a decision is made. That's the way that operates.

Senator O'NEILL: If I understand correctly—and please correct me if I haven't got this—the initial request would come in. The case would be then determined. You referred to a class response. What is a class approval to build enterprise fibre into non-NBN greenfield areas? Does NBN Co have one?

Mr Kathage: I will clarify. Under the policy, NBN would apply to shareholder ministers to overbuild fibre in a new development. It could also apply to ministers to say, 'For any new developments of this sort in networks of this sort, we seek permission to overbuild in a general sense.' I would have to take on notice the extent to which applications have been made. My feeling is that no applications have been made.

Senator O'NEILL: I need to go back to understand a bit of what you just said then in terms of the class and the government's position on that. Can you repeat what you said, Mr Kathage?

Mr Kathage: Yes. Sorry if I'm being confusing. All I meant was that NBN can write to shareholder ministers on a case-by-case basis. They can also write to shareholder ministers and ask for permission to overbuild in certain circumstances that might apply generally. For example, NBN Co might set out a series of things to consider or characteristics of the network that it would seek to overbuild in the permission. It would seek permission from shareholder ministers on that basis.

Senator O'NEILL: Do they can generalise it out?

Mr Kathage: Right.

Senator O'NEILL: Does NBN Co have class approval to build enterprise fibre into non-NBN greenfield areas?

Mr Kathage: As far as I am aware, they have not made an application in general. I would have to take on notice the number of times they've applied to shareholder ministers for particular overbuild actions.

Senator O'NEILL: So there's no general class that applies where they can just go to where they want?

Mr Kathage: That's correct.

Senator O'NEILL: And you're going to take on notice to give me some idea about how frequently this has occurred?

Mr Kathage: Correct, yes.

Senator O'NEILL: Could you provide me with a list of the occasions on which this request has been advanced?

Mr Kathage: We could, yes.

Senator O'NEILL: To the best of your recollection, when was that most recently undertaken?
Mr Kathage: I would have to take it on notice.

Senator O'NEILL: Is the TIND a statement of policy or expectations, or is it derived from legislation?

Mr Kathage: The TIND does not have a basis in legislation. It is a policy of the government. It is referred to in the statement of expectations that the government issued to NBN Co in 2016.

Senator O'NEILL: It sounds quite cumbersome and a little difficult to negotiate. Minister, if the position of the government is supportive of the enterprise build, why is this so complicated?

Senator Fifield: You're saying that it is complicated. Mr Kathage has outlined the process. I guess the process recognises that there can be particular and unique circumstances in particular areas where there may need to be a variation from the policy. That's made essentially on a case-by-case basis.

Senator O'NEILL: When you make that decision, do you take the advice of the department, or do you determine that with other independent sources and your own insight?

Senator Fifield: Well, there would be advice from the department. There would be the perspectives of the relevant parties and a decision made.

Senator O'NEILL: Do they speak to you, or do you consult with those relevant parties when you are making this decision? What level of detail is there?

Senator Fifield: From memory, for this and similar processes in other areas, there are letters to the relevant parties seeking their thoughts. Those come back. The department provides advice as to what is reasonable. Then a decision is made.

Mr Kathage: I might just make a further point of clarification. The rule I spoke about earlier applies to networks that NBN has considered to be NBN equivalent. The policy does provide some guidance as to what might be provided as an NBN equivalent network. An example is a network that is wholesale only and open access. Where NBN is of the view that a network is NBN equivalent—for example, when it is open access and wholesale only—that approval process would apply. But it wouldn't typically apply in the instance where there is a network that is not either wholesale only or open access, for example.

Senator O'NEILL: I'll look forward to further information from you regarding this and any indicative reveal of the process that is engaged and correspondence that happens as part of the process.

Mr Mrdak: We'll get you some information on the guidelines and the way they have been operationalised in terms of approvals and when that has happened and the like to give you some context for what the NBN is doing with their enterprise plan.

Senator O'NEILL: A record of the occasions on which it has occurred and indicative correspondence about how the decision-making process gets made.

Mr Mrdak: But also, I think, the important point that has just been made around the policy principles which underpin it in terms of wholesale and non-discriminatory access. I think they are important in terms of the way in which NBN enters the market in those locations.

Senator O'NEILL: Thank you very much.
Senator MARTIN: I would like to touch on the Mobile Black Spot Program. Can somebody update me, please, on the process of a location being frustrated? What is the process? Who is involved in that process?

Mr Mrdak: Certainly. I will ask Mr Paterson back to the table.

Mr Paterson: Thank you for your question. A site frustration is the terminology we use under the mobile black spot contracts where a base station is no longer required or cannot actually be built. There are different reasons for this. One of the reasons may be there's no longer a requirement for it. I know of a site frustration where an Indigenous community changed location, so we're no longer building in that location. There's other ones where when we might be building several base stations, for example, and when you turn them on, we find there's a location where you don't actually need it anymore because you're getting coverage from the neighbouring base stations. We need to go through a process around that. You have other ones where you can't get council planning approval and you can't get access to the land and so forth.

So the normal process we follow—this is going to take me two or three minutes, I'm sorry—is that the applications come in. The carriers do a desktop analysis. They've got some pretty good software. They look at it on the software. They do their planning. It looks okay. It's a competitive process. They don't know what's going to get up or not. We go through an assessment process. We say, 'This represents value for money. We will fund this.' They then go through what they call a triple A process, where there is access, acquisition and approvals. This is where they go to the council. This is where they try to access the land. They make arrangements to get power connected. They make sure they can actually get to the site and they can build the roads and so forth. It's during this process that they often will start to strike some problems. So we work with the carriers through that process. Sometimes our solution might be that you can move the base station a few hundred metres. That might solve the problem. Sometimes we might put in a small cell, which is a smaller piece of infrastructure because it gets around planning issues. The council might say, 'Well, we don't want a big base station on the top of the hill because we're worried about visual amenity', so we look at what else we can do in that area.

So we will go through this process. If we can't find a solution through these ongoing discussions with the carriers, they will put in a site frustration event. So they'll put a notice to the department on site frustration. That sort of escalates the issue. As part of that information, they need to tell us information such as what the problem is. If the council said no, why did they say no? When did you seek your planning approval? If you couldn't get land access, why couldn't you get land access? How many people did you ask? Which locations did you look at? How many other sites in the area have you looked at? What were the problems at all those other sites? We go through this SFE process around that. If we're satisfied that it still can't be built, we'll then go to the minister and say: 'Based on the evidence, they can't build this base station. But there are options to put another site in the same region.' That's the first thing we try to do—get it in the local region. If not, we might look to put it somewhere else again. So it's quite a lengthy process, because to not build a site is something we're not very comfortable with. There's quite a laborious process to make sure that there's absolutely no option before we get to that point.
Senator MARTIN: So the site for a mobile black spot is identified by the community and businesses, I take it. That's one of the main reasons why you set up a site or drive to the site. If the site is frustrated and there is no coverage, what is your next step?

Mr Paterson: We look at lessons learned in each round of the program. We've gone through three rounds and we're on the fourth round. One of the lessons we picked up from the first round of the program is to not get locked into, 'You will build a base station on this hill which is this high' et cetera. What we focus on is the coverage to the community. So that's what we're really worried about. I don't personally actually care too much about the base station. I just want to get that coverage solution. So we try to be as flexible as we can. Now I've totally confused myself. What was the second part of your question?

Senator MARTIN: What happens when the coverage isn't there? What is the next step?

Mr Paterson: Exactly. As I said, we try to look at alternatives. For example, if you've got to power down the site because you've got a technical interference issue or you can't get the same radius of coverage because the council doesn't want a 60-metre tower and you end up with a 30-metre tower, we will actually look at it and say, 'If we get a 70 per cent coverage outcome and it's still value for money, we would rather get 70 per cent than nothing.' So sometimes it's a lower coverage outcome. Sometimes it's a different type of infrastructure that might solve the problem. As I said before, if you can't get a solution in that area at all, then that base station comes off the rollout list and we look to put a replacement in.

We've got 19 sites across the 867 base stations to date. That information is on our website. We put information on which ones can't be built and why they can't be built. The carriers engage with the local communities. It's kind of on a community by community basis on how they communicate it. Often they can't get planning approval because there is opposition within the community. The information might be through the council. Carriers might undertake a town hall meeting or whatever. It's kind of targeted communication in each community about what the issues are.

Senator MARTIN: So basically it's either verbally or in letter form that the community is informed?

Mr Paterson: Yes. I can't talk too much about the round underway at the moment. But we are introducing a community engagement plan so we can actually tighten some of those arrangements.

Senator MARTIN: Can you tell me how many sites are frustrated in Tasmania? When will the base stations be built?

Mr Paterson: Thank you. What I can tell you off the top of my head while I get the briefing out is that there are no site frustrations in Tasmania. But that's not to say that we're not having some trouble with some of the base stations with regard to getting the approvals and everything else in place.

Senator MARTIN: Local government?

Mr Paterson: Yes. Don't get me wrong: the local governments are representing the interests of their communities. The community might not want a base station. There are no frustrations in Tasmania at the moment. I will give you a quick overview, if you like. Under three rounds of the program, all three carriers are active in Tasmania—Optus, Telstra and Vodafone. There're 46 mobile base station macros. They are the large bits of equipment.
There are 13 small cells. So there are 59 bits of equipment. To date, the 31 base stations and all 13 small cells have been constructed. So 44 of the 59 bits of infrastructure have actually been constructed. There is a small number that we are working our way through. It's issues such as site acquisition, council approvals and getting the backhaul cable put in by Telstra. It is those sort of issues. There's one where it's the issue I talked about before—we think the neighbouring base stations are covering that black spot. We need to go through a process to make sure that the black spot is actually covered before we take a base station off the program.

**Senator MARTIN:** Thank you. How much is being spent under the program in Tasmania?

**Mr Paterson:** The funding allocation for Tasmania is, under three rounds of the program, $32 million in total. That's $14 million from the Australian government and $700,000 from the Tasmanian government. The rest of the total is from the carriers themselves.

**Senator MARTIN:** With the partnership with this program, is it dollar to dollar for the state carrier and the Commonwealth?

**Mr Paterson:** It is a bit better than that. We try to cap the Commonwealth contribution at $500,000 per base station. We also try to get a dollar for dollar outcome. What we have got between different rounds of the program has gone from 27 per cent Commonwealth to 29 per cent Commonwealth from round 1 to round 2. I might have that around the wrong way. I think in round 3 we didn't get state government contributions, so for that one it was more like dollar for dollar. We're going through the process on round 4 at the moment. I can't talk too much about it, but we do have state contributions in this round.

**Senator MARTIN:** It seems that the state government in Tasmania is a bit shy on their contribution.

**Mr Paterson:** I'm happy with any contribution that comes into the program. I would not say that myself.

**CHAIR:** There are too many, if you ask me. There is one too many.

**Mr Paterson:** The reality is that we do an assessment. There is a lot of complicated things that go on. Basically we're looking at coverage and cost. If a state puts in money, it makes it cheaper. If carriers put in money, it makes it cheaper for the Commonwealth. You're not likely to get funded. The states that put in more money get more base stations.

**Senator MARTIN:** More coverage.

**Mr Paterson:** And more coverage.

**Senator MARTIN:** For the community. How many homes and people have benefited from better mobile coverage because of a base station being built under the program?

**Mr Paterson:** I have two metrics here. I really want to tell you the second one, but I'll start with the first one. What happens is that the carriers put their applications in. We then assess it. We have a decision-makers coverage outcome. This is the numbers we've come up with that we're confident represent value for money on that. Under the first three rounds of the program, we're looking at 88,000 square kilometres of new handheld coverage. We're looking at 205,000 square kilometres of external coverage. We're looking at 7,700 kilometres of major transport routes—roads and rail. We're looking at 32,600 premises. They are the metrics...
we've signed up to. In reality, we've actually done a bit better than that because we are quite conservative in the way we want to do our assessment. We want to minimise our risk. We're also very active with the carriers in trying to maximise the outcomes as we go.

So it's not a set and forget. We're actually going through a process of trying to get better outcomes per base station. I have some stats here for 580 base stations. We've done more than that, but this is the latest data I have. So our KPI for those 580, if you like, was 27,371 premises to be covered. We're at 72,232, so we're three times. With handheld coverage, our KPI is 69,985 square kilometres. We're actually at 125,984 square kilometres. So that's almost double on the handheld. With external antennas, our KPI is 148,280 square kilometres on those base stations. We're actually at 187,078, so we're 40,000 more on that. I'm pretty happy with those numbers.

Senator MARTIN: Thank you. I'm going back to the $14 million from the Commonwealth. That was for the whole three rounds. Is that correct?

Mr Paterson: That's correct.

Senator MARTIN: So $700,000 for Tasmania over the whole three rounds. How does that compare to other states and their contributions?

Mr Paterson: I will go down by state, if you like. Note this is the first two rounds. The states don't put money in for the third round. In New South Wales, we're looking at $29,697,000 GST exclusive. In Queensland, it is $21,521,000. In South Australia, it is $1,326,000. I've given you the Tasmanian number before. In Victoria, it is $26,304,000. In Western Australia, it's $48,879,000. So they are substantial contributions. You do sometimes get base stations where the states will put a co-contribution in, but it won't actually get up in our assessment. For example, you might have two carriers in that area already and so we're saying, 'You're not getting new coverage for that so we're not going to fund it' and so forth. But that's the amount of money that they're locked into the contracts on.

Senator MARTIN: Could you give me the Queensland figure again?

Mr Paterson: Yes. It is $21,521,000. I've got it by round as well if you want it.

Senator MARTIN: No. That's fine, thanks. Thank you very much, Mr Paterson. Thank you, Chair.

Senator URQUHART: I just have a few on Australia Post, so I'll try and get through them as quickly as I can. Mr Mrdak, Australia Post's half year results have just come out this morning. Letter profits are down $102 million and parcel profits are up $25 million. Given the report suggests that letters are losing profits at a rate four times faster than the increase in parcel profits, what challenges does that present going forward?

Mr Mrdak: Well, obviously very considerable challenges. I'll ask my colleagues to give you an assessment of their business strategy.

Senator URQUHART: Thank you.

Mr Mrdak: Obviously, they are very considerable strategies, particularly given the very diverse nature of the network and the requirement to maintain such a large number of post offices and their delivery network, which is really geared around letters traditionally. To make that switch across to a parcel business which is also delivering letters is the challenge and how you maintain the viability of the business. I will ask Ms Sullivan or Ms Rush to give you an
assessment of some of the issues that Australia Post is now dealing with as part of that transition.

**Ms Rush:** Certainly the results indicate, as released this afternoon, that the letter decline continues at a rate of about 10 per cent. That volume's average decline is 11 per cent. What we're seeing is a significant impact on Australia Post's bottom line. There is some upside to that in that the domestic parcel business is continuing to bring profits into Australia Post. However, it's not sufficient to arrest the decline.

**Senator URQUHART:** Thank you. In the past 13 years, there only appears to be one year where Australia Post did not turn a profit. That was in 2014-15. Based on the assessment of the department, is there any risk that, at some point in the next few years, Australia Post will run cash flow negative?

**Ms Rush:** There is some risk. However, it's a risk that Australia Post, in our view, is actively managing. They are forecasting modest profits. They are actively pursuing efficiencies, particularly through automation and other means. However, that is something that we actively discuss with Australia Post on an ongoing basis.

**Senator URQUHART:** The 2018 Australia Post annual report highlights two trends which have been a consistent feature over the past decade. Firstly, revenue for domestic mail products has decreased from $2.38 billion to $2.26 billion. Secondly, total mail volumes also decreased from $3.6 million to $3.3 million. Does the department have a view on what the trajectory of this challenge looks like? Do you think that parcel profits can continue to offset those losses given that they are not growing at the same rate as the losses?

**Ms Rush:** I think there is an additional and complicating question here, and that is that while there is a growth in e-commerce, there are losses that Australia Post is experiencing in its international inbound mail; that is, reserve letter services. So it's not simply a question about whether domestic parcels can offset those losses. It's then how that plays out with inbound particularly small packages, if you like. So Australia Post and Australia is a net importer at the moment and makes significant losses on inbound mail. So it is an additional and compounding problem. I should note that the mid-year results talk about Australia Post performing particularly well in terms of comparatively in the economic sense. So I think Australia Post is doing a tremendous job. It's doing all it can to combat those challenges. In particular, it is doing a lot better than a lot of other postal operators internationally.

**Senator URQUHART:** You talked about efficiency improvements. Is there another wave of identified productivity improvements that can actually offset these occurring losses?

**Ms Rush:** I have to be careful because I don't work in Australia Post.

**Senator URQUHART:** I guess I'm asking these from the department's perspective.

**Ms Rush:** Sure. Of course. Australia Post is focusing in particular on efficiencies in its workforce. I mentioned automation recently. Particularly it's looking at delivery centres. It opened very recently a large delivery centre hub in Brisbane. So it's looking at using technology in different ways to deliver mail, parcels and small packets in particular, which is a particular challenge for the post. I would suggest that it is looking at workforce efficiencies in the main. It is one of the largest workforces in Australia, yes.

**Senator URQUHART:** So is the department working with Australia Post to identify options to ensure that the business model adapts in the face of the ongoing decline in letters?
Ms Rush: Yes. It is the subject of ongoing discussions.

Senator URQUHART: What are the sort of options that you're looking at with Australia Post?

Ms Rush: There are a range of options. In terms of what the government controls, if you like, or more actively influences, there is the performance standards, the regulatory framework under which Australia Post operates and whether or not there are enhancements that can be made to that regulatory framework going forward.

Senator URQUHART: That's all I've got for that.

Senator CHISHOLM: I have a couple of questions on the 5G spectrum auction, Mr Mrdak. I refer to a very insightful question that I asked in October last year. Following the announcement of TPG and Vodafone, did the government undertake a process to assess the revenue implications of the joint venture and the reduced competitive tension that could result from having fewer bidders in the auction? Your response was: Again, I need to be very cautious because of the probity requirements of the auction. Now that we've passed the auction, I want to explore this further. Did the department undertake a process to assess the revenue implications of the joint venture that would result from having fewer bidders in the auction?

Mr Mrdak: We didn't do a revenue analysis per se in terms of sale, but we certainly did look at the potential impacts of the competition limits once the joint venture was approved for the process of bidding. If that resulted in essentially the reserve price being paid for the available spectrum in metro areas, we did look at that in the context of advice to the government in relation to the auction.

Senator CHISHOLM: But surely that diligence that was undertaken would have taken into account revenue implications?

Mr Mrdak: We certainly looked at potential impacts of the merger with regard to, as I said, revenue impacts because of how that was then factored into what was put into the forward estimates for sale receipts. We did do that analysis, yes.

Senator CHISHOLM: Are you able to provide us with an understanding of what that was?

Mr Mrdak: No. I'd have to take that on notice. I don't think we're in a position to provide that advice.

Senator CHISHOLM: Mr Mrdak, following the TPG and Vodafone announcement, what options and advice did you present to the minister warning of potential risks to the revenue option if it were continued unmodified in its original form?

Mr Mrdak: We provided advice in relation to, as I just mentioned, the potential impacts on what was in the forward estimates for sale receipts from the spectrum and options that may be available; as the minister mentioned earlier, what the powers of the minister would be to intervene, given that the auction process was effectively underway; and what the options would be to change any of the settings in the auction.

Senator CHISHOLM: And what options were presented to the minister with regard to changing the auction timeframes or auction design?
Mr Mrdak: We provided advice in relation to the minister’s legal powers to intervene into the auction process.

Senator CHISHOLM: Can you explain to the committee what they were?

Mr Mrdak: I think that some of it relied very much on legal advice. I would probably take that on notice, if I may, in terms of what details I can provide you. Obviously, some of that advice may have impacts on future auctions. I will take that on notice, if I can.

Senator CHISHOLM: Was one option the minister was given that he could have changed the design of the auction?

Mr Mrdak: Well, we provided advice to the minister in relation to the competition limits. Once the ACCC had provided advice to the minister on their views on competition limits, we provided advice to the minister. The minister did take action to make some adjustments to competition limits at a different level in relation to the metro to what the ACCC had recommended. We provided advice around that because we felt that there was a more optimal outcome available with some changes to the competition limits which would have enabled some further competitive tension in both metro and regional areas. And we also provided advice on the available options to the minister should he wish to intervene to either stop or change the settings that had been put in place by ACMA in relation to the auction, which Ms O’Loughlin talked about a little bit earlier.

Senator CHISHOLM: Given the vast discrepancy between what was achieved in the regional versus metropolitan auction, do you think that was achieved?

Mr Mrdak: Certainly we were conscious of the fact that the ACCC had recommended certain competition limits because of their view around the need to encourage competition into particular markets, particularly metro markets. That was certainly achieved in the sense that we now have at least three considerable players who have considerable 5G spectrum available to them now. We’ve also got a new entrant into the market in certain regional areas. So I think that was achieved. I don’t know if Ms Sullivan wants to give some further analysis. But we certainly believe that a lot of the policy objectives of the auction were met as well as provided a return to the community in relation to the spectrum price.

Ms Sullivan: I will pick up on Mr Mrdak’s point. In terms of the broader objectives for the auction, as set out in the RIS that was published by the OBPR in July, there are essentially five policy objectives for the auction which we consider were met. These were around competitive market outcomes for the benefit of consumers, so all lots were sold. Another was efficient allocation and use of spectrum. All telecommunications carriers who participated in the auction now have sufficient spectrum to actually commence rollout of 5G networks. We had timely release of the spectrum to market. In addition, obviously, we had bidding in regional areas. One of our objectives was around infrastructure investment in regional areas and also encouraging secondary trading down the track. It is also worth noting that, in the metropolitan area, Optus already held 100 megahertz of spectrum, which is one reason why the competition limits were set where they were. So it gave those who didn’t hold that level of spectrum in the metropolitan area the ability to step into the market and participate and get spectrum at the auction.

Senator CHISHOLM: I refer back to the October estimates again, Mr Mrdak. This was your answer in response to a question:
Again, all I can say is that we have looked at various options and scenarios and how they might play out, but I really couldn't give you a much more definitive answer here today.

I am wondering if you can give us more insight into that detail and the various options, scenarios and assessments and how they might play out.

Mr Mrdak: In light of the joint venture being approved for bidding processes, we did provide advice in relation to whether any of the objectives that Ms Sullivan has set out would be compromised by the reduced number of bidders through a combination of both the JV and the competition limits. The process was already underway at the time the JV was agreed. As to whether the minister should, in our view at that stage, have intervened to either stop the process or to change any of the settings, we provided advice on a range of those options of intervening or the alternative, to allow, which is eventually where we settled—that the process continue as set out by ACMA.

Senator CHISHOLM: If the minister had intervened, what would that have looked like?

Mr Mrdak: Well, there were a range of options available, including potentially—we did provide advice in relation to the minister's powers to intervene and to either restart the process or to stop the process for a period to allow the market participants to settle, effectively, or the future of the JV through the ACCC process to be settled. So they really related to timing of the auction and also the way in which the auction would proceed, recognising the fact that, as Ms O'Loughlin and her colleagues said a little bit earlier, the auction process was already underway under a set of rules and advice to the industry on how it would proceed.

Senator CHISHOLM: I want to be clear. I understand the advice from Ms O'Loughlin. Did you have different advice to what the advice from ACMA was about the minister's ability to intervene?

Mr Mrdak: No. We worked with ACMA to provide advice to the minister. There were, you will recall, some public calls at that time that the auction should be either deferred or some terms of the auction be changed. We provided advice on those matters that were being raised by certain industry participants in our advice to the minister.

Senator CHISHOLM: Minister, the original advice from ACMA about the reserve price was given at a time when it was expected that three large spectrum holding mobile carriers would be bidding—that is, Telstra, TPG and Vodafone. Is that correct?

Senator Fifield: I will leave it to others to speculate as to what the likely configuration was.

Senator CHISHOLM: I'm asking about the advice you were given. It's not speculation. You were given advice.
Senator Fifield: Given advice as to who owned what by way of spectrum, which obviously informed the ACCC's advice and informed my advice. I guess really the starting point is who owned what as opposed to what particular potential participants may or may not have been going to do or expected to be done.

Senator CHISHOLM: So the department didn't provide any advice about who was actually going to bid? They just said, 'These people are out there'?

Senator Fifield: I will ask Ms Sullivan to speak to this. You don't actually know who's going to bid until an auction is underway. With auctions, sometimes people you expect to bid do. Sometimes people you expect to bid don't. Or they combine together in some way which wasn't previously anticipated.

Ms Sullivan: I will pick up on the minister's point. As the minister has said, largely you may be able to make an educated guess. But in terms of who actually applies, once they are in the ACMA process, we're all covered by probity rules around that. We could sit back and say there are some potential players who may go in based on the holdings. But, for example, Dense Air—they were unexpected. We weren't aware of their involvement in the market ahead of the outcome of the auction.

Senator Fifield: I'm not being deliberately Delphic. That is the way that advice is provided. We can all make assessments as to what we think is likely to happen. But, as you know, it can turn out differently.

Senator CHISHOLM: Minister, did you subsequently receive advice that proceeding with the auction in its original form after the TPG-Vodafone joint venture could have significant and negative impacts on the revenue raised from regional licences?

Senator Fifield: The department makes a range of assessment as to the way things may unfold. But, in terms of the revenue that comes in, you don't really know until an auction is concluded.

Senator CHISHOLM: Were you provided with advice that proceeding with the auction in its original form might have a negative impact on revenue raised? It is a specific question.

Senator Fifield: There are a number of different ways that that can be looked at—what the anticipated revenues are that might have been booked in the budget. There are a range of assumptions which can go to inform the advice of the department as to what may occur. I'm happy for officers to contribute to the extent that they feel they are able to or not.

Mr Mrdak: As I said, we aren't trying to be difficult. There's a whole range of issues around the way these auctions proceed in the future. Essentially, yes, the department did provide advice in relation to some likely scenarios in the event of certain bidders and how that might reflect on what was booked effectively in the forward estimates.

Senator CHISHOLM: Was one of those a concern that it would have a negative impact on revenue raised?

Mr Mrdak: I don't want to go into the detail of our advice. But we certainly did look at a range of scenarios of what would happen to revenue projections.

Senator CHISHOLM: I am trying to briefly run through some of the auction results. According to the ACMA website, the five megahertz lot achieved the following winning bid in each of the following regions. Adelaide was $536,000; Brisbane, $880,000; Canberra,
$184,000; Melbourne, $1,898,000; Sydney, $2.164 million; Perth, $538,000. If we look at some of the lot prices in the regional areas, regional Victoria was $2.7 million; regional northern New South Wales and southern Queensland was $8 million. Is the department's understanding that the regional licence achieved a sale value altogether of about $690 million?

Mr Mrdak: Yes. That's right. ACMA confirmed that earlier, yes.

Senator CHISHOLM: How much more revenue would the auction have raised if the metropolitan auction achieved the same prices as the regional auction?

Ms Sullivan: I would have to take that on notice. I would need to do the maths, basically.

Mr Mrdak: Again, it's very important to recognise the impact of the competition limits and what that did to preclude certain bidders from metropolitan spectrum. We didn't have the same competitive tension in the metro areas as we did in the regional areas because of the competition limits being applied.

Senator CHISHOLM: But it would be fair to say that the regional auction fetched potentially between four and six times more than the metropolitan auction?

Mr Mrdak: Yes, it did.

Ms Sullivan: That is confirmed by ACMA.

Senator CHISHOLM: So it appears the metropolitan licences could have raised between $650 million and $1 billion more under the scenario than the auction actually raised.

Senator Fifield: There's a range of embedded assumptions in that which we can't attest to.

Mr Mrdak: As I said, Senator, we operated with the auction rules set once the competition limits were set. The reserve price was set. The auction proceeded on that basis. We looked at potential scenarios with different bidders in and out of the auction. Essentially, with those parameters, the auction proceeded as it did and raised the revenue it did.

Senator CHISHOLM: Mr Mrdak, can you reasonably argue that, with the benefit of hindsight, the benefits of proceeding have outweighed the revenue forgone?

Mr Mrdak: Look, I think, firstly, the revenue raised is considerable. Without going into our projections of what may have been available, it is a considerable return to the community. So I think if you look at the auction criteria that Ms Sullivan outlined, you will see that was met; the return to the community was there. Importantly, the time lines for the 5G for 3.6 were met, which is important because it has facilitated the rollout of 5G. We will be one of the first countries in the world to see the rollout of the 5G technology. So there is a broader economic benefit in meeting the timeframe. That was a major consideration in our advice—meeting the timeframe that had been set out. I will ask Ms Sullivan to comment. Once the auction process had started, there were certain time lines which were set in that for the allocation of spectrum. They were met. Hence, we are seeing the industry rollout of 5G, which would not have otherwise happened had we not proceeded with the auction.

Ms Sullivan: I will pick up on Mr Mrdak's comment. Under the requirements of the Radiocommunications Act, because of the timing of various instruments that had been issued for the auction, if the first spectrum allocation had not occurred by 30 March this year—if there had been a delay in the auction—the whole process would have had to start again. That's under the provisions of the act. That was also something that was factored into this. If there
had been any delay and we hadn't actually made any of the spectrum allocations by 30 March 2019, the entire process would have had to start again, which would be another potential two years delay.

**Senator CHISHOLM:** The assessment of the department post the auction result just does not seem to be a proportionate response given the outcome that there was such a discrepancy between what was achieved in the regional areas and what was achieved in the metropolitan areas.

**Mr Mrdak:** Well, as I said, if you look at the objectives that were set for the auction, in our view, they have been met, and as Ms Sullivan indicated. We believe, with the benefit of our review, that both the sale receipts and the timing have been a net positive for the community.

**Senator CHISHOLM:** Do you think that the joint venture construct coming along basically whilst the auction was underway has materially undermined the process of the auction?

**Mr Mrdak:** Well, it's to be seen. The joint venture obviously removed some competitive tension from the bidding process for spectrum. We have no doubt about that. As the minister said, until an auction process is complete, you don't know what other bidders may have come into the market. With hindsight, we know that we did have a reduced number of bidders in certain markets because of the JV.

**Senator CHISHOLM:** What has the department learnt from the process?

**Mr Mrdak:** Well, we're certainly, on reflection, much clearer in our minds around the legal powers in relation to the auction and the legal processes involved in the auction. We've examined them quite closely, so I think we're much better placed for future auctions to be much clearer at the outset about commitments to the process and where our intervention points are.

**Ms Sullivan:** It is worth noting that decisions on the auction settings were made based on the best information we had at the time. When the joint venture was announced, which was the day before applications closed for the auction, as Mr Mrdak and the minister have mentioned, we certainly considered a range of responses, which included looking at whether it is possible to delay or cancel the auction. As noted, we were also taking into account that hard deadline. If that first spectrum allocation was not made by 30 March this year, the entire auction process would have had to have been cancelled and we would have had to start the process over again, which would take up to two years. So noting that at that point in time we only had Optus in the market with 100 megahertz and a range of other players were certainly interested in participating in an auction, we took into account a range of factors when providing advice to the minister. I will add one other thing. In terms of the objectives of auctions, under the Radiocommunications Act as it stands, optimising government revenue is not one of the objectives of the act.

**Senator CHISHOLM:** Seriously?

**Ms Sullivan:** Yes.

**Senator CHISHOLM:** So in terms of the objectives of the auction, it's not actually one that you maximise the available revenue to the government?
Ms Sullivan: That is not one of the objectives of the act.

Mr Mrdak: The act certainly is clear on the efficient allocation of spectrum. Obviously the price mechanism is the primary means by which you do that. But maximising revenue to the government is not a specific objective of the act.

Senator CHISHOLM: My view is that potentially millions of dollars have been lost in terms of the difference between what was auctioned regionally versus in the metropolitan areas. There's actually nothing in terms of the process that states that revenue needs to be an objective of the auction outcome?

Mr Mrdak: Well, as I said, the outcome that is being sought and which the act envisages is to get the most efficient allocation of spectrum through the auction. Revenue maximisation to government is not a specific objective of the spectrum allocation.

Senator CHISHOLM: That seems remarkable to me. Are you comfortable with that, Minister?

Senator Fifield: If revenue raising were the sole objective, competition and consumer outcomes would be secondary. You would see options constructed very differently and very different market outcomes. Obviously, part of the purpose of an auction is to raise revenue. Otherwise spectrum would be allocated without charge. Obviously, raising revenue is part of the purpose of an auction. But the act outlines a range of consumer oriented objectives. With auctions, it's about getting the balance right for the community in terms of the efficient allocation of spectrum to make sure that there's competition between telcos to derive revenue for the government, which this has done, and to not see any particular market participant monopolising.

Mr Mrdak: I will return to your question, Senator. Look up the investment plans that have already been announced by carriers in relation to the spectrum they've purchased. I think the community is already starting to see a lift in investment around 5G technology, which, as I say, is placing us well ahead of other parts of the world.

Senator CHISHOLM: Thanks, Chair.

CHAIR: I think that means we have concluded program 1.1. Is that right?

Senator KENEALLY: I have a few questions on Indigenous communications.

CHAIR: Fire away.

Senator KENEALLY: As I said, I have some questions on Indigenous communications. I will begin by referring to the Indigenous expenditure report 2017 produced by the Productivity Commission. It is stated in the attached tables that in the 2015-16 financial years, $6.35 million was allocated to fund programs to support access to communications services by remote Indigenous communities. Can the department confirm that this figure is correct?

Senator Fifield: I will ask officers to clarify. I think there are some Indigenous communications programs that are run by the Department of Prime Minister and Cabinet. We might just check.

Mr Paterson: I think I'm here in an historic context. We did have some programs in our department relating to internet facilities and community phones. Communications facilities in Indigenous communities has been in PM&C for a number of years now.

Mr Mrdak: It is in PM&C.
Senator KENEALLY: Is there any expenditure through the department of communications for these types of programs?

Mr Paterson: The only expenditure I would be aware of is in relation to the Mobile Black Spot Program, where some of our facilities are installed in Indigenous communities.

Senator KENEALLY: Okay. But that's more that you have a program that is both Indigenous and non-Indigenous communities?

Mr Paterson: Exactly. It's not specifically targeted at Indigenous communities. It's just the outcome of the competitive process.

Senator KENEALLY: That may mean that the rest of my questions would go to PM&C on this matter, Mr Paterson, thank you.

Mr Paterson: I hope it helped.

Senator KENEALLY: It helped.

Senator URQUHART: I have a few questions on the Australian domain names authority. I will try to get through them as quickly as I can.

Mr Mrdak: We'll just get the officers to the table.

Senator URQUHART: Great. Thank you. Can you please provide an update on the implementation of the review?

Mr Bullock: You are asking about the progress in implementing the government's review of auDA?

Senator URQUHART: Yes.

Mr Bullock: Since the auDA review was released by government in April, we have been progressing all 29 recommendations of the review. I can confirm that all recommendations are in progress and a number are complete. A number of recommendations are in progress and due to be completed over the next 12 to 18 months.

Senator URQUHART: Where is the selection of the nominations committee up to?

Mr Bullock: One of the recommendations of the review is that we establish a nominations committee. The nominations committee will introduce a skills based approach to selecting future board members.

Senator URQUHART: Yes. I just need to know where the selection of that committee is up to.

Mr Bullock: We've shortlisted candidates for the nomination committee. Over the next few weeks, we will be interviewing those shortlisted candidates.

Senator URQUHART: So interviewing and then with a view to?

Mr Bullock: Ideally, making offers for the shortlisted candidates by the end of March at the latest.

Senator URQUHART: Who is the decision-maker with respect to who is appointed to the nominations committee? Is it government or auDA?

Mr Bullock: The auDA board will basically decide who they would like to appoint to the nominations committee. Under the auDA constitution, they need to write to the department. The department has a right to approve those candidates.
Senator URQUHART: So the department has the final say, or does the department have to get advice from the minister? How does that work?

Mr Bullock: Under the constitution, it is the department that is the decision-maker.

Senator URQUHART: Does the department just get involved at that stage, or do they have oversight of the process as a whole?

Mr Bullock: The department is involved in the nominations committee process the whole way through. So the department will be on the nominations committee.

Senator URQUHART: What role does the nominations committee play in appointing the auDA board?

Mr Bullock: So once the nominations committee is in place, their role will be to reconstitute the auDA board over 12 months. In effect, they will be putting forward candidates for the board. That will be based on a skills matrix that is approved by the nominations committee.

Senator URQUHART: This is my final question. How will matters in relation to the nominations committee and/or the auDA board be managed in the context of the pending caretaker period? Does that stop? What happens? Does it pause?

Mr Bullock: Initial advice received by the department is that the nominations committee can proceed through the caretaker period.

Senator URQUHART: Great. So we're looking still at the end of March?

Mr Bullock: For the nominations committee to be formed.

Senator URQUHART: And then they start their work?

Mr Bullock: That's right.

Senator URQUHART: Irrespective of whether we're in caretaker or not?

Mr Bullock: Correct.

Senator URQUHART: Great. That's it. Thank you.

CHAIR: Thank you. Right now we might break. Thank you, program 1.1. We'll come back with the Australia Council at about 4.35 pm.

Mr Mrdak: Chair, does that complete 1.1?

CHAIR: It certainly does. Well done.

Proceedings suspended from 16:24 to 16:35

Australia Council

CHAIR: Welcome, Mr Collette. On behalf of the committee, congratulations and welcome to estimates.

Mr Collette: Thank you.

CHAIR: Do you have an opening statement you'd like to make?

Mr Collette: I think in the interests of time I might spare you that. It's very good to be here. Let me say just very briefly that, after many years spent in publishing, performing arts and education, to take on the responsibility for the Australia Council was pretty irresistible. It is such an important civic institution in shaping our cultural and artistic life. I look forward particularly to advocating something I feel very passionately about, which is the public value...
of the arts. This is public money we're investing. We are well versed now in accounting for the impact of arts and creativity in economic terms. But there is such strong social and cultural value. I could talk about that for a long time, but, as I said, I'll spare you that. I'll do my best after three weeks in the role to answer any questions you might have.

Senator Fifield: Chair, I will take this opportunity at Mr Collette's first estimates appearance to congratulate him on his appointment as the CEO of the Australia Council. I think it's an appointment by the board of the Australia Council that has been universally welcomed in the sector amongst large, medium and small organisations and individual artists. I also recognise that I don't think it has been done before where a member of the board of the Australia Council has transmogrified and transitioned into being the chief executive. He is someone who comes with a very deep understanding of the organisation.

CHAIR: Welcome, Mr Collette. We'll see if you feel as excited at the end of estimates today.

Senator BILYK: Mr Collette, I don't think this will be the worst estimates that the arts or Australia Council have ever had to sit through. I want to get some information on the project grant rounds since March 2015 and the dollar value of Unfunded Excellence projects. I think now the Australia Council has a definition or criteria for Unfunded Excellence?

Mr Collette: Yes.

Senator BILYK: Are you able to give me a dollar value since March 2015?

Mr Collette: I can't with certainty. My colleague Tim Blackwell may be able to. We may have to take that on notice. You're quite correct; Unfunded Excellence is something that has our full concentration now. To be clear, what it is are those applications for grants that a peer panel of experts consider to be absolutely worth funding, hence the excellence. The unfunded bit, then, is self-explanatory. It's what the grant rounds can't afford to fund. I suppose our simple view is this is opportunity lost. It's capability building and talent lost. So it's a critical part of challenges ahead, but I don't think we have to hand, do we, Tim—

Mr Blackwell: No.

Mr Collette: a number since 2015. For the first time in the grants round last October, the actual applications we were able to fund were slightly less than the ones recommended by the panel of peers. But that goes to the strength also, which in itself is a good thing, of applications and the amount of applications coming through.

Senator BILYK: Can you take that on notice, though, and get back to me with that information?

Mr Collette: Certainly will. Of course.

Senator BILYK: You might need to do the same with this question. I'm interested in the rate of Unfunded Excellence in 2016 for the four-year funding for organisations program—the 2017-2020 program.

Mr Collette: I'm afraid that we'll have to take that on notice.

Senator BILYK: Can you confirm that the $5 million of research towards the 2017 and 2018 years of four-year funding for organisation programs and that $5 million of return Catalyst funding was used for 2019 and 2020?

Mr Collette: That sounds right to me, but I'll ask Tim to confirm that.
Mr Blackwell: Yes. That's correct.

Senator BILYK: Anything else you'd like me to know in regard to that money being used—that returned Catalyst funding? Are you able to give me a breakdown or anything like that?

Mr Blackwell: What I can say is that in terms of the novated contracts that we took over for Catalyst grants, in this financial year—so 2018-19—that total is $3.8 million. In 2019-20, which is the last year of the Catalyst grants program, that is about $1.6 million.

Senator BILYK: Sorry, $1.6 million?

Mr Blackwell: It is $1.6 million.

Senator BILYK: That will be that Catalyst funding will return and will have been spent then?

Mr Blackwell: That's correct, yes.

Senator BILYK: But that was money that was supposed to be reserves, wasn't it?

Mr Blackwell: No. The Australia Council in 2016 and 2017 used in aggregate $10 million of its reserves, $5 million each of those years, to fund that multi-year funded program for small to medium organisations. So that was out of Australia Council’s reserves, which was separate to the return funding package from 2017.

Senator BILYK: So was there any reserve used towards the 2017-18 years of four-year funding?

Mr Blackwell: Yes, $5 million.

Senator BILYK: Sorry, that's for 2017?

Mr Blackwell: The 2017-18 financial year. That's $5 million. And $5 million for 2016-17.

Senator BILYK: I want to ask about the National Indigenous Arts and Cultural Authority. I think the Australia Council is the secretariat for that at the moment. Is that correct?

Mr Collette: Yes. It is the secretariat. There is a broad process of consultation going on nationally, which we intend will lead to a symposium likely in November this year. Depending on the outcomes of that, that will be the end of Australia Council's role as secretariat. If it is successful, an independent steering committee would be appointed. But at the moment we continue to be assisting secretariat.

Senator BILYK: Can you give me some feedback on the consultations? Can you tell me how many meetings have been held and where they've been?

Mr Collette: They have been national. There are 25 metropolitan and then extensive regional locations, including the Torres Strait.

Senator BILYK: How many regional?

Mr Collette: I don't have a number for that, Senator.

Senator BILYK: Could you take that on notice?

Mr Collette: Yes. Of course.

Senator BILYK: If I could get the venues—the towns or areas—that would be really helpful.

Mr Collette: Yes.
Senator BILYK: Thanks. Are you able to tell us if there's any sort of trend, consensus or key issues emerging from these consultations?

Mr Collette: I think it would be fair to say that there is enthusiasm around the need for this. It was a recommendation of a parliamentary inquiry. But the point of the consultation is to see whether by November we could define what NIACA would be to a certainty. Then it would be over to the steering committee to look at what might be a sustainable business case for NIACA going forward. The informed sense is that it's too early to tell.

Senator BILYK: How many more consultations are expected to happen between now and November?

Mr Collette: Through February?

Mr Blackwell: Yes. Through February. I'm not sure of the exact number, but I know that we've got a lot of regional areas that we're doing through February and into March as well.

Senator BILYK: What will happen between March and November?

Mr Blackwell: We will look at the outcome of the evidence from those consultations and then put together a discussion paper.

Senator BILYK: So when you take those other questions on notice, can you tell me the projections of where else you're having these consultations?

Mr Blackwell: Absolutely.

Senator BILYK: When did this idea first come about? Mr Collette, first of all, I should have said congratulations on your position.

Mr Collette: Thank you.

Senator BILYK: Can you give me a bit of background into it?

Mr Collette: It's been considered for a very long time. My understanding is that there was a parliamentary inquiry around particularly copyright pertaining to Indigenous work. Out of that came recommendation 8, which is that the Australia Council supports work being done to see whether there could be a National Indigenous Arts and Cultural Authority that could play a hand in supporting Indigenous copyright to their work. It is something that has been talked about I think probably for decades, but it has now crystallised into this program of work. I stress that at this stage the Australia Council is playing the secretariat function.

Senator BILYK: I do understand.

Mr Collette: But it's through the consultation that we have to work out where we might go.

Senator BILYK: The copyright issue is one I've asked questions on many times in estimates myself, so I'm pretty clear about that. So you had submissions? Is that correct?

Mr Collette: Yes. We are taking submissions, yes.

Senator BILYK: When did work first begin on this? When did the Australia Council actually start doing work in this area as the secretariat?

Mr Blackwell: I would probably take that on notice. It would have been about mid last year that this process really started in earnest in terms of the consultation process.

Senator BILYK: And then there were submissions?
Mr Blackwell: There were submissions, and there are submissions separate to, obviously, the consultation forums that we're running. There is also an online survey so we can get evidence from various channels through into this process.

Senator BILYK: Mr Blackwell, how are we getting this information out to Indigenous people so they know that it's there and to go to consultations and to be part of it?

Dr Were: We have a number of processes we're doing that through. There is the Aboriginal and Torres Strait Islander board. We have deep networks with first nations communities across Australia, so we're obviously leveraging those. There is a dedicated NIACA website to which people are doing online submissions, as my colleague has said. We are also extensively using our colleagues in our states and territory agencies as well.

Senator BILYK: So the states and territories are responsible for getting information out to people on the consultations?

Dr Were: They often assist to help us communicate, yes.

Senator BILYK: I would like a list of all those contacts you've got that are getting this information out to the Indigenous people.

Dr Were: We can provide you with the communications plan around that.

Senator BILYK: I think this is my last question in regard to this. What is the funding allocation for the process?

Mr Collette: To provide the secretariat, of course.

Mr Blackwell: For this year, we've budgeted $200,000 to support that activity of consultation and secretariat functions.

Senator BILYK: What is the funding process for the actual authority?

Mr Collette: My understanding is that we are not carrying an allocation to fund the authority. This is really to support the consultation.

Senator BILYK: To get the authority up and running?

Mr Collette: Exactly. If there looks like a purpose that needs supporting, it would be up to the steering committee, if it goes that way, to start working on what a business case for it might look like.

Senator BILYK: Minister, have you got anything to add about potential funding and future funding profiles?

Senator Fifield: I think that part of the work that is being undertaken at the moment is to determine what the scope of the authority might be, what governance models might be and what could be potential sources of support for the authority.

Senator BILYK: Thanks. That's it for Australia Council.

CHAIR: Thank you, Australia Council. Mr Collette, I'm sure you leave with your excitement intact.

Senator BILYK: If I think of anything else, I'll put it on notice.

Mr Collette: Thank you.

CHAIR: Excellent. We'll now move to the officers from Screen Australia.
Screen Australia

[16:51]

CHAIR: Welcome, Mr Mason. Do you have an opening statement you'd like to make?

Mr G Mason: I do not, Chair.

Senator BILYK: I want to have a chat about the Screen Australia budget. I think in 2018-19 you had about $31 million budgeted for grants. Is that correct?

Mr G Mason: I think what you're talking about would be that we give grants and investment. We give our money out in two different ways, so I believe that would be correct. Anything under $500,000 and a lot of our documentary funding is grants as opposed to investments.

Senator BILYK: Are you able to tell me out of your budget what is committed and what is not committed?

Mr G Mason: As of this date? We normally allocate all the money within a year period. Obviously, we do it as rounds as they come through. I could take on notice the exact amount of money. I think 60 per cent of the funding is currently allocated or committed, but we would anticipate that, by 30 June, that would be fully committed.

Senator BILYK: Because there's another grants round?

Mr G Mason: We have multiple rounds. We have a board meeting this Thursday, in fact. We have another round in April and one more in June. So it would be highly unlikely that we didn't commit all that money.

Senator BILYK: Do you have a budget for Indigenous work?

Mr G Mason: We do. Obviously we have the money we receive from the government and the money we would raise ourselves in recoupment et cetera. We do an indicative budget internally. Certainly for our Indigenous unit we have a specified amount.

Senator BILYK: I have a permanent hearing issue and sometimes I just can't hear a thing. A lot I probably don't want to hear.

Mr G Mason: We have an allocation which we put aside for the Indigenous unit. We've had such great success in that area that, with our Indigenous content creators, they can come in either door. They can come in through the Indigenous door or they could come in through the regular door.

Senator BILYK: So how much do you put aside for the Indigenous area?

Mr G Mason: In this year, we had about $3¼ million, but I think we're already on track to spend over $4 million. As I said, this time last week, the minister had a screening here of a film called Top End Wedding, which was directed by Wayne Blair and written by the Indigenous actor Miranda Tapsell. That did not come out of Indigenous funding. That came out of the regular funding. I think you're aware, Senator, that last year was our 25th anniversary. The minister was there. It was an amazing event. That sector is something we're very mindful of and it has produced incredible results.

Senator BILYK: That's great. So is that amount of funding likely to increase for the Indigenous area?
Mr G Mason: As I said, in this year that we're actually in, we have already moved money from the other notional pots, if you like, into the Indigenous fund. Particularly we're already looking now at our 2019-20 budget. We are assuming to increase that figure. **Mystery Road**, obviously, was the most successful thing on the ABC this year. **Sweet Country** was an incredible success in film terms. We're looking to capitalise on that success.

Senator BILYK: Does that funding remain steady, or has it dropped?

Mr G Mason: It ebbs and flows a bit.

Senator BILYK: I know you're telling me that it has increased recently.

Mr G Mason: It ebbs and flows a bit. Obviously some years we've spent as little as $2.9 million and some years we've spent as much as $5.8 million. Again, obviously, the $4 million we would anticipate spending in this year is slightly lower than the peak years. But, obviously as you're aware, we have slightly less funding generally so the percentages are staying pretty on trend.

Senator BILYK: So how much less is your funding generally? Just remind me.

Mr G Mason: In 2013-14, I guess it was just over $100 million and in 2018-19 it's about $81 million.

Senator BILYK: That's quite a big drop, isn't it, really, when you look at it. I think that's all I've got there too. I told you it would be all nice and sweet and short, Chair.

**Department of Communications and the Arts**

[16:57]

CHAIR: Excellent. Thank you very much for that, Senator Bilyk. Thank you, Mr Mason and Screen Australia. We'll now go to outcome 2 from the department, arts and cultural development.

Senator BILYK: Does the government have an arts policy or a creative industries policy at the moment?

Senator Fifield: The government's arts policy is to support and maintain the existing arts infrastructure of the nation, which has at its heart the Australia Council. It respects its role as a funding body that operates at arm's length from government. That's one level of our policy. Another is the maintenance and support of the national collecting institutions, which are the repository of so much of our knowledge, history and future. The government supports the national training institutions, which play such an important role in sustaining the arts sector and providing the next generations of performers and leaders. Along with that there are programs in the department, chief amongst which, I think, is the support for Indigenous visual arts centres around the country and support for the preservation of Indigenous languages. Rounding out the government's arts policy is the role of Creative Partnerships Australia, which helps to link the arts community with corporate and philanthropic dollars. So together those elements represent the Commonwealth's arts policy.

Senator BILYK: That's quite a few different things happening, Minister, but it's not really a comprehensive arts policy. You haven't got a comprehensive arts policy in place, have you, at the moment?

Senator Fifield: Well, I think those elements are very comprehensive. One of the things that I've been pleased about in recent years is that there has been a level of certainty and
predictability that has been brought to bear when it comes to the funding in the arts portfolio and the structures—

**Senator BILYK:** Since they've got back some of the money that was taken from places and got rid of the disgusting Catalyst program.

**Senator Fifield:** You and I, Senator, work together to a common purpose.

**Senator BILYK:** How many people work in the arts policy section?

**Senator Fifield:** I'll ask Dr Arnott.

**Dr Arnott:** We don't actually have a section that is called arts policy as such. We have policy officers across the division working on particular areas of policy all the time. There would be a significant number of policy officers working across the division. There's not a particular section that's just devoted to arts policy.

**Senator BILYK:** So you can't give me a specific number, then?

**Dr Arnott:** I can't because people have different combinations of policy and program work in their roles.

**Mr Eccles:** Perhaps Dr Arnott could outline the size of the division and the structures just to give you an idea of the breadth of work and the number of staff we have.

**Dr Arnott:** We have 120 full-time-equivalent staff working in the Arts Division divided up into four different branches. We have the Creative Industries Branch. Screen Australia is one of the agencies that is looked after by that branch. That branch looks after policy and programs associated with the visual arts, with literature and with the screen industries. Then we have the Arts Development and Investment Branch. That looks after the Australia Council and Creative Partnerships Australia that the minister just mentioned. It also looks after the seven arts training organisations that we fund and has policy responsibility for arts training and arts in education as well as a number of other functions, including our engagement internationally in terms of our dealings with, for example, the UN and UNESCO in terms of our international agreements on international culture. Then we have the Collections and Cultural Heritage Branch, which looks after the national collecting institutions, which the minister also mentioned. There are a number of other important areas of policy to do with cultural heritage and the national collections. Finally, we have Access and Participation Branch, which looks after the Indigenous languages program, regional arts, arts and disability and cultural ministers that engage with the states and territories. So you can see there is a broad mix. All of those areas would have program and policy responsibilities.

**Senator BILYK:** And people move in and out of those different areas?

**Dr Arnott:** Yes. People do change roles from time to time.

**Senator BILYK:** Depending on the specific work?

**Dr Arnott:** Priorities of the government. Yes, absolutely.

**Senator BILYK:** Have you got any policies under development at the moment? If so, are you able to tell me what they are?

**Dr Arnott:** Yes, absolutely. Some worth mentioning include one on behalf of cultural ministers, where we are developing a renewed arts and disability strategy. It has been a successful policy at the federal level for a number of years. We've just completed a
consultation process on behalf of the ministers for the development of that policy. We will shortly be putting out a report detailing the outcomes of that process. We are tasked by ministers to put a renewed strategy for their consideration at their meeting later this year.

**Senator BILYK:** What is the report timeline for that?

**Dr Arnott:** We are going to have a draft strategy for ministers' consideration in September this year, which is likely when they'll meet.

**Senator BILYK:** Can you quickly tell me about the consultation process?

**Dr Arnott:** Yes, absolutely. We had a comprehensive consultation process which involved an online survey, face-to-face meetings in every state and territory and people calling us up and sending us emails; it was very open. We received 700 engagements during that process from a mixture of arts and disability organisations, artists with a disability and carers and those kinds of people. As I said, we will put out the outcomes of that and what the sector is asking for, I think, by the end of next month. So that's one example. I'll give you another example as well, which is the work we're undertaking for the reform of the major performing arts framework. Last year, state, territory and Commonwealth ministers asked us to come back to our cultural ministers with opportunities to strengthen the framework that governs the funding for the major performing arts companies. Again, we've undertaken a couple of consultation processes to look at those opportunities to strengthen that policy and funding framework. We're due to come back to ministers early in 2019—that is, now—with the outcomes of that particular process. That is a couple of examples of policy work that we've done. There are many others.

**Senator BILYK:** And the consultation process was with the major performing arts groups?

**Dr Arnott:** Yes. Public and with the companies directly. And obviously involving the Australia Council, which looks after that framework.

**Senator BILYK:** Good. Is that it for what is being worked on?

**Dr Arnott:** No. Absolutely not. I could go on for a while.

**Senator BILYK:** Tell me a couple more.

**Dr Arnott:** Okay. I might mention the work we're doing on Indigenous languages, given that 2019 is the International Year of Indigenous Language. We're working with a number of stakeholders to conduct a major survey of the state of Indigenous languages in Australia. We expect to be able to put out a report into that towards the end of this year. That's obviously involving a lot of work with AIATSIS, the Australian Institute of Aboriginal and Torres Strait Islander Studies, academics and Indigenous communities on languages. So that is an important piece of policy work to give us a good evidence base about where we're at in Australia with Indigenous languages.

**Senator BILYK:** Do you have a contemporary music policy?

**Dr Arnott:** Not directly, but we work with key stakeholders in the contemporary music space. We've run a number of projects in that space. We obviously engage with the contemporary music sector on a very regular basis.

**Senator BILYK:** I would have thought that music is an art form or creative industry and should have a policy.
... Senator Fifield: Individual creatives have a number of avenues through the Australia Council for project funding and funding for individuals. There have been some discrete programs in the department part funded by the Australia Council in relation to contemporary Australian music.

Senator BILYK: Can you on notice give me a listing of what those programs were and when they ran?

Dr Arnott: Yes. Absolutely, Senator.

Senator BILYK: Thanks. What would the objectives have been in the creative music space, then?

Dr Arnott: Some of the objectives have been to help songwriters develop their craft. We've run programs that assist in that area. Sometimes that is engaging schoolkids with contemporary music song-making. The Australia Council runs the Contemporary Music Touring Program, which is responsible for supporting regional touring of contemporary music around the country. That's probably all I can mention.

Senator BILYK: On notice once again, can you give me a breakdown of how many and where some of those events took place—the songwriting stuff and the schoolkids programs?

Dr Arnott: Yes.

Senator BILYK: You don't go to every school, though, do you?

Dr Arnott: No. It would be a proportion.

Senator BILYK: If I could get a list of that, that would be great, thanks.

Dr Arnott: Yes. We can provide those details.

Senator BILYK: Can someone talk to me about the Cooktown 2020 festival? I think you or Mr Morrison made an announcement about that in January. Is that right?

Senator Fifield: Yes. I was in Cooktown recently with the Prime Minister and Mr Entsch, the local member. The local government has a big program to mark the occasion. What was announced there was a number of things, including the circumnavigation of the *Endeavour* and the indicative stops around the country that the replica *Endeavour* will make. I should also indicate that, at the places the *Endeavour* stops, there will be traveling exhibitions supported by the National Maritime Museum and the National Museum. When I was in Cooktown with the Prime Minister, we also announced a number of elements for the Cooktown 2020 festival that are being funded by the Department of the Prime Minister and Cabinet. Although obviously it's a different estimates, I'm happy to quickly take you through what those elements were.

Senator BILYK: Is that $5.45 million for the festival?

Senator Fifield: That's through the Community Development Grants Program administered by the Department of the Prime Minister and Cabinet. That's right—$5.45 million.

Senator BILYK: That's just for the Cooktown festival?

Senator Fifield: That's for the Cooktown 2020 festival, which includes the development of the Reconciliation Rocks precinct, the botanic gardens and upgrades to the Gamaay Dreaming Track. It will also support a project to house artefacts that are used by the local...
community for the annual re-enactment of the story of Australia's first active reconciliation on the banks of the Endeavour River.

**Senator BILYK:** Presumably, traditional owners will be, and have been, involved in this project?

**Senator Fifield:** Yes, they have. The Cooktown community is a model for reconciliation and how communities can come together to work. I think they really do embody the outlook of these celebrations, which is to look at the view from the ship and the view from the shore.

**Senator BILYK:** Has anything happened since the project was announced?

**Senator Fifield:** In terms of those projects by the Department of the Prime Minister and Cabinet, it is best that those questions be put to them. But in terms of the commemorations that my portfolio has responsibility for, there is the Cook exhibition at the National Library, which is ongoing. There's work that the National Maritime Museum is putting in. We can take on notice and give you the full details of all of those elements that the National Maritime Museum has charge of, those that the National Library has charge of and those that the National Museum has charge of. We'll give you a comprehensive list.

**Senator BILYK:** Is there a time line for this project?

**Senator Fifield:** Well, there are different time lines for each element, which we can provide for you.

**Senator BILYK:** Can we get a copy of that?

**Senator Fifield:** Certainly.

**Senator BILYK:** Thank you. The only other questions at the moment involve the Australian and children's screen content review. Have you responded to the Australian and children's content review?

**Senator Fifield:** Thank you, Senator. We did canvass general questions this morning in this area. As I indicated there, the screen content review, which involves the combined work of the department, ACMA and Screen Australia, is one input to government as we look at seeing what is appropriate to make sure that our incentives for the Australian screen industry are refurbished. We have already announced the location incentive, which is to enhance the existing location offset arrangements. I also indicated this morning that I will be making a screen statement within the next month.

**Senator BILYK:** Within?

**Senator Fifield:** The next month.

**Senator BILYK:** When was the review undertaken?

**Senator Fifield:** Well, the guts of that work occurred when, Mr Eccles?

**Mr Eccles:** In the latter part of 2017.

**Senator Fifield:** The latter part of 2017. As I say, it is an input. It's not a definitive piece of work. It does represent an input into government's consideration.

**Senator BILYK:** I want to get some time lines straight in my own head. When did it report?

**Senator Fifield:** As I say, it's an input to government. It's not an end point.
Senator BILYK: But you did get a report?
Senator Fifield: There's a document which was produced by those bodies I referenced.
Senator BILYK: When did you get that?
Senator Fifield: I'll check when exactly.
Mr Eccles: It was late December 2017.
Senator BILYK: So that's over a year ago.
Senator Fifield: That's correct. These are areas where they need careful consideration, where it can be easy for a proposition which is not carefully considered to have effects which no-one wants. I recall that before the budget last year there was a ripple through the screen sector that the government was on the cusp of announcing changes to quotas, which wasn't the case. I was able to provide reassurance at that time that anything we did we would do carefully and consultatively, recognising that there are perspectives that producers have and there are perspectives that broadcasters have, for instance. Both have legitimate considerations. We as a government are not about to embark upon change that doesn't have consensus and that isn't going to move the ball forward when it comes to our industry. Yes, we are being careful. Yes, we are being consultative. The sector doesn't want something sprung upon it. They're very keen to work closely with government.
Senator BILYK: There's a difference between having something sprung on you and waiting forever for it.
Senator Fifield: Well, none of the relevant parties want government to make a unilateral decision on issues where they wouldn't be happy with the outcome.
Senator BILYK: That's all I've got there. Chair, can I ask questions here now about ABC cuts?
CHAIR: The ABC? We dealt with that under general this morning. We have the ABC on 6 March.
Senator BILYK: Great. Thank you.
CHAIR: Excellent. Senator Chisholm, you have a couple of questions?
Senator CHISHOLM: Yes, thanks. Minister, I want to ask about the $30 million grant to Fox Sports. I think guidelines relating to the funding agreement were first made public in December 2017. Does that sound right?
Senator Fifield: For 1.1. It is close to 1.2. We're happy to answer to the extent we can. Mr Eccles: I'll see how far I can go. What was the question again, please, Senator?
Senator CHISHOLM: I'll try to get to the most important ones rather than waste time on those. I think it was December 2017. Minister, at Senate estimates on 23 October last year, it was confirmed that the department received a first performance report from Fox Sports on 30 July 2018. That report had been provided to your office. There you stated that it was your intention to provide maximum transparency and that you want to provide the maximum information publicly subject to commercial-in-confidence. Why, then, did you wait until after
the Senate estimates hearing to first release the performance report on the department's website?

Senator Fifield: I don't have in my mind when that performance report was made public.

Senator CHISHOLM: Well, it was made public after 23 October. You had had it since 30 July.

Senator Fifield: So that means it has been available for November, December, January and February publicly.

Senator CHISHOLM: I'm asking why you had it for so long without releasing it publicly.

Senator Fifield: I don't know what the sequence of events was prior to it going on the website. I'm happy to take that on notice. I don't have a recollection of any direction in relation to that. But we're happy to take that on notice.

Senator CHISHOLM: What was the purpose of the performance report?

Senator Fifield: I'll ask Mr Eccles to speak to that.

Mr Eccles: The performance report is just part of the rolling process. At the beginning of a set cycle, if you like, a set period, there is the agreement on a work program. At the end of that period, there is the preparation of a performance report which outlines what was achieved. The performance report essentially is an assessment of the extent to which Fox Sports met the milestones that were part of the contract.

Senator CHISHOLM: How long is it? How many pages?

Mr Eccles: The performance report is unnumbered. It's a dozen pages or so.

Senator CHISHOLM: Is that the full report, or is that just a summary of a longer report?

Mr Eccles: It is the formal report. We also have quite detailed discussions to understand exactly what they are doing and how they are progressing with the grant agreement.

Senator CHISHOLM: On page 1, I think it says that more than 4,800 hours of content was delivered by the funding agreement, including around 1,600 live hours.

Mr Eccles: That sounds about right, yes.

Senator CHISHOLM: Do you know what percentage of those two figures was specifically for women's sport?

Mr Eccles: I can certainly give you an idea. I can go through. For example, there was 811 hours of AFLW. There was 170 hours of the W-League. There was 147 hours of Matildas. There were 54 hours of women's rugby sevens and 22 hours of women's test rugby league. There are a number of sports—cycling and lawn bowls—which obviously have components of both. Surfing has components of both, including Ironman. I would need to take it away to do that precise calculation. There is the international Women's Cricket World Cup, the WNBL of 174 hours, the Women's Asian Cup, the World League finals of women's hockey, gymnastics, rhythmic gymnastics, artistic gymnastics, beach volleyball, women's one day cricket and the Super W rugby union. So there's a significant amount. We'll give you a breakdown of exactly what proportion in terms of hours. We can give you an approximate but on notice.
Senator CHISHOLM: On page 2, it goes on to describe what the broadcast will be in the second year of the funding agreement. It says it will be around 1,300 hours of live coverage and around 3,000 hours of coverage in total. Why are live hours going backwards by nearly 20 per cent and total coverage hours by nearly 40 per cent in the second year of the funding agreement?

Mr Eccles: What page are you referring to, Senator?

Senator CHISHOLM: My understanding is it is page 2.

Mr Eccles: Page 1 is the one that outlined the 4,800?

Senator CHISHOLM: Yes.

Mr Eccles: I would need to take that on notice and look into that. The relevant subject matter experts aren't here.

Senator CHISHOLM: I would be interested to know why there has been a drop in those figures and to understand what has been lost to see those figures drop significantly, if what I outlined is correct.

Mr Eccles: There is probably a very simple and logical explanation. I just can't put my hand on it at the moment.

Senator CHISHOLM: I will ask a similar question about the percentage of those 1,300 live hours and the 3,000 total coverage that's women's sport.

Mr Eccles: Yes.

Senator CHISHOLM: Were any of these events broadcast on both free-to-air and Fox Sports?

Mr Eccles: Not that I'm aware of.

Senator CHISHOLM: Does the department have audience statistics for the different broadcast platforms—that is, comparative data on audience figures for events or competitions?

Mr Eccles: No. We don't.

Senator CHISHOLM: How can the department assess whether the grant of funds was a value for money investment if it's unable to compare audiences between Fox Sports and free-to-air?

Mr Eccles: I think the value for money goes to the number of hours broadcast that give people the opportunity to see sports that, for market reasons, have not been supported by either the national broadcasters or the commercial free-to-airs. The key criteria that we have is the new exposure given to these sports. We'll take on notice the extent to which we can ascertain audience numbers. But the key mark is the extent to which there's a platform that's giving profile to sports that have not received broadcast profile in the past.

Senator CHISHOLM: When do you expect the second performance report will be supplied and release publicly?

Mr Eccles: Can you ask that question again? When do we expect the next performance report?

Senator CHISHOLM: To be supplied and then released publicly.
Mr Eccles: I would imagine that it would coincide with this year. So it would be at the end of the current financial year.

Senator CHISHOLM: And then public release?

Mr Eccles: Shortly thereafter.

CHAIR: I think we are concluded on program 2.1. We'll now move to the Office of the eSafety Commissioner.

Office of the eSafety Commissioner

[17:26]

CHAIR: Welcome, Ms Inman Grant. Thank you for joining us again. Do you have an opening statement that you'd like to make?

Ms Inman Grant: I'd like to submit it to Hansard. It's not a really good way to start when the committee's eyes start glazing over. I'll start with some of the highlights just to keep you up to speed.

CHAIR: We clearly need more coffee up here.

Ms Inman Grant: Absolutely. And maybe dinner. Thank you for the opportunity to issue an opening statement. I will submit the full statement for the Hansard. I would like to give you some updates on our world first and only legislated cyberbullying scheme. We've now responded to 1,100 complaints from young Australians seeking help. We know that these early intervention services are critical. We want to bring the content down to reduce the harm to the child. Since parliament expanded our remit to cover all Australians in 2017, we've also helped more than 800 Australian adults experiencing serious cyber abuse, using our informal powers to provide assistance and guidance. We know that all forms of online abuse are intersectional and two-thirds of these victims are women. We've also continued to successfully administer the only government scheme to combat image based abuse.

The office has received almost 700 reports since its inception and another 333 since our new civil penalty regime has been in place. I don't like to call them reports because there are people behind each of these reports and there are significant investigations that go into each of these reports. So while there were almost 700 investigations, this resulted in 1,700 URLs and 140 different platforms where we have had an 80 per cent success rate in terms of takedown.

The third leg of our investigative division, the cyber report team, has investigated more than 7,000 cases of online child sexual abuse material. It worked closely with law enforcement and our international partners in the INHOPE network over the past year. While the vast majority of these reports are reported to our INHOPE partners for takedown within seven days, if there is any pertinent information that can lead to the identification of a victim or a perpetrator, we immediately refer that to the Australian Federal Police. Last year, we referred more than 358 URLs.

With regard to awareness and education, we know that online safety education is a lifelong journey. It's a cradle to grave journey, if you will. Based on our recent research, 81 per cent of Australian parents told us that two-year-olds have access to internet-enabled devices. It has also told us that 94 per cent of Australian parents have told us that their children have access to the internet by the age of four. Clearly, we need to start online safety education early and in
the home the minute we hand over a device. We need to encourage parents to be engaged in their children's online lives.

We have some new funding to work through an early childhood education program, which will not only help us provide parents with these tailored tools but also train early childhood educators to make sure that they get this guidance before they go into school. Of course, we work ever more closely with the education sector to provide curriculum materials, education, leadership and coordination so that online safety education can be part of a child's online journey from K to 12.

For adults, I've talked about online abuse. You may have seen this past week that we've got the eSafetyWomen program, where we've reached 7,300 domestic frontline workers. We know that 98 per cent of women experiencing domestic and family abuse also experience technology facilitated abuse. Technology is the means by which the control, surveillance and coercion that they may be experiencing is extended. This provides them tools, strategies and pathways for assistance. Last week, we released some research from CALD communities across Australia. It's qualitative research. We've learned that women from linguistically and culturally diverse communities have a whole different set of issues that they have to deal with—threats of deportation; public shaming; culturally specific abuse; social isolation if they have limited English proficiency or low digital literacy; and a hard time explaining their situation and finding pathways for support. Depending on where they come from, they may have perceptions about going to state based institutions like law enforcement agencies and so tend to go to health care agencies. So we've put out guides in 12 separate languages.

I think I'll stop there so that you can answer questions. Again, you can see it is a veritable cornucopia of activity to try to provide a broad range of Australian citizens with a range of support.

CHAIR: Thank you very much, Ms Inman Grant. That's very helpful information. We'll start with questions from Senator Urquhart.

Senator URQUHART: Thank you very much. Ms Inman Grant. I will start with the minister. The Report of the statutory review of the Enhancing Online Safety Act 2015 and the review of schedules 5 and 7 to the Broadcasting Services Act 1992 (Online Content Scheme) is signed by the independent reviewer Lynelle Briggs and dated 31 October 2018. That document was presented out of sitting on 14 February 2019. I understand that under the act there is a requirement that it be tabled in parliament within 15 days after the completion of that report. That actually met that. That's correct, isn't it?

Senator Fifield: That's correct.

Senator URQUHART: On what date did the independent reviewer submit her final report to your office?

Senator Fifield: I'll ask the department if they have that date to hand.

Mr Mrdak: I believe it was the date as per the report, but I'll check that.

Senator URQUHART: So that was 31 October. Is that correct?

Mr Mrdak: That's right.

Senator Fifield: That's correct.

Senator URQUHART: Was a preliminary report ever supplied to your office?
Senator Fifield: I'll have to check. I did meet with the independent reviewer once during her work. She took me through her thinking. But I'll have to check whether I was formally presented with an interim report.

Mr Eccles: I don't believe you were.

Senator URQUHART: So you didn't get any copies prior to the final report?

Senator Fifield: No. I would have received briefing from the department before my meeting with the independent reviewer. She briefed me.

Senator URQUHART: When was the concurrent review undertaken by Lynelle Briggs? When did that commence and when did it conclude? What steps were undertaken in the course of the review process? I have a few questions, so I will run through them.

Mr Eccles: Run through them. I might get a couple of the officers.

Senator URQUHART: How many consultation papers were issued? How many submissions were received? How many consultation meetings were held? Who did the reviewer meet with and on what dates?

Mr Eccles: So that was the number of submissions received and the meetings?

Senator URQUHART: Which was October?

Mr Eccles: On 1 October, yes. Maybe Dr Patteson or Mr Penprase can take you through the key steps and the processes.

Dr Patteson: There were 27 submissions received, and 22 of them were made public on the department's website. The ones that were withheld were because of confidentiality requests from the submitters.

Senator URQUHART: Yes. How many consultation papers were issued?

Dr Patteson: So in terms of the consultation process, it was an independent review. That was decided by the independent reviewer, Ms Briggs. It is our understanding that she had a number of meetings with individuals relevant to the review and obviously reviewed all of the submissions.

Senator URQUHART: How many consultation meetings were held?

Dr Patteson: I don't know. I would have to take that on notice.

Senator URQUHART: Who did the reviewer meet with? You said that in terms of the consultation papers there was a number of meetings with the reviewer. On what dates?

Dr Patteson: We would have to take that on notice. As I said, it was an independent review. Whilst the department provided support to Ms Briggs in providing her with contact details where requested and, if necessary, arranging travel for her, it was certainly an independent review. So it was her determination who she met with.

Senator URQUHART: You would have the details of that because you organised the travel. Is that correct?

Dr Patteson: We would have details of that, so I can take that on notice.
Senator URQUHART: Could you provide me with a precise list? Are you able to get that back to us during the course of this afternoon?

Dr Patteson: Probably not this afternoon.

Senator URQUHART: Why not, if you've got the dates?

Dr Patteson: At this point, we would have to go back to the office and get them.

Senator URQUHART: Is there nobody from the office there?

Dr Patteson: There will be people in the office. We will do our best to get it to you, but we'll have to collate and go through a variety of information back to when the review started and to when Ms Briggs finished the review. So it's not like we have the entirety in a table.

Senator URQUHART: No. I understand. But if there are people listening, obviously they could get started on that. Minister, your media release of 16 February 2019 is entitled 'Modernising Australia's online safety framework'. It does not go so far as to accept or support any of the five key recommendations from the Briggs report explicitly. Can you tell me why that's so?

Senator Fifield: My apologies if the release wasn't clear. We do support in principle the Briggs review recommendations 1 through to 4. Number 5, as you would expect, which goes to staffing and resourcing, is one that the government notes.

Senator URQUHART: So you note number 5, but you do support 1 to 4?

Senator Fifield: We certainly support in principle.

Senator URQUHART: Because that wasn't clear in your media release.

Senator Fifield: We support in principle. Obviously, these are things that the government needs to deliberate on.

Senator URQUHART: So support in principle means that you don't necessarily support them but you support the principle of them?

Senator Fifield: Well, we support the thrust of the work by Ms Briggs.

Senator URQUHART: Minister, your 16 February media release announces an online safety charter on which public consultation will be undertaken until 5 April 2019. There are 34 discussion questions in that consultation paper. Can you tell me what experts are informing the development of the charter?

Mr Penprase: Those principles contained in the draft charter have been put out for a consultation process. It is very much intended that that process elicit comments and views from any interested parties. That would be experts in the field, industry participants, parents, carers, teachers or anyone with a view on the way that those principles, statements or standards are intended to be constructed.

Senator URQUHART: So you haven't directed those towards particular experts. They've just generally been put out. Is that a reasonable summary?

Mr Penprase: Yes.

Senator URQUHART: So when do you anticipate that the charter will be finalised?
Mr Penprase: At this stage, the intention is around the middle of this year, although it will obviously depend on the nature of the consultation process and the type of comments that come back. They will need to be fed back through to government for a decision on the final form of the charter.

Senator URQUHART: So if you don't expect it to be finalised by the middle of 2019—about June, July or whatever—you don't expect it to be finalised prior to the commencement of caretaker mode?

Mr Penprase: It's a matter for government as to when it's finalised. At this stage, mid-2019 is the target, yes.

Senator URQUHART: Can finalisation of the charter actually occur during caretaker mode? Can that continue?

Mr Eccles: It's something that we would consult with the government on in finalising the charter.

Senator URQUHART: What about legally, though? Can it continue?

Mr Mrdak: It's a statement of government policy, so I think it would be dependent on the government of the day. It would be a matter on which we would consult the minister. Processes of conversation, discussion and consultation could continue through caretaker, but I think it would be something that the government of the day would need to settle.

Senator URQUHART: Minister, do you have any response to that? It's an important piece of documentation, obviously.

Senator Fifield: You're asking if it can continue?

Senator URQUHART: Can the finalisation of the charter occur during caretaker mode? The officials have just said that's a matter for government.

Senator Fifield: Work can continue, but obviously in caretaker, government couldn't take a decision that would bind an incoming government.

Senator URQUHART: So unlikely? Is that what I hear you are saying? I don't want to put words in your mouth.

Senator Fifield: The usual caretaker conventions and provisions apply.

Senator URQUHART: So if consultation closes on, say, 5 April and the election is called by, say, about 13 April, that would give the department only one week to consider the submissions, finalise any drafting and get through the consultation and clearance before parliament is dissolved. That would be right, wouldn't it?

Senator Fifield: We're speculating there.

Senator URQUHART: If you laid out the dates, that would be what actually would occur, wouldn't it?

Senator Fifield: We're speculating.

Senator URQUHART: No. I'm not saying that's what is going to happen. I'm just laying out some dates.

Senator Fifield: I'll leave you to do that, Senator.
Senator URQUHART: I want to get to some questions about the draft online safety charter. Just to be clear, does the government accept or support the five key recommendations? You've said you in principle support 1 to 4, but 5 you note.

Senator Fifield: Let me put it this way. We support the thrust of the work of the independent reviewer. Obviously, government needs to take formal decisions in relation to recommendations, which government hasn't done. But we support the general thrust. In terms of resourcing matters, those are considered, as they always are, budget by budget.

Senator URQUHART: So does the government accept that there should be a new online safety act?

Senator Fifield: I think that's a good and a sensible recommendation, yes.

Senator URQUHART: Why do you think that?

Senator Fifield: Well, because the legislative framework that we have at the moment has evolved over time. I think it would be a good and appropriate exercise to have a consolidated piece of legislation.

Senator URQUHART: Is that because of technology?

Senator Fifield: That's right. Technology has evolved. Parliaments have sought to keep up with that bit by bit. So I think that would be a worthwhile exercise.

Senator URQUHART: Does the government accept that there should be a new online safety plan?

Senator Fifield: Again, we support the thrust of that. We effectively do have an online safety plan by virtue of the things that we have done establishing the Office of the eSafety Commissioner, expanding the remit legislatively to move from being a children's eSafety Commissioner to a community wide eSafety Commissioner. We've given a range of new powers and authorities, be it with kids cyberbullying and non-consensual sharing of intimate images to the commissioner. There are criminal penalties. There are civil penalties. There are a range of different elements, sometimes in different portfolios as well, that legitimately have an interest in online safety issues. Yes, I think the thrust of the recommendation is sensible.

Senator URQUHART: Does the government accept that mechanisms need to be put in place to correct the shortfalls in the effectiveness of the system?

Senator Fifield: The particular ones you are referencing?

Senator URQUHART: I'm talking in general about the recommendations coming out of the report. One of them talks about the mechanisms to be put in place to correct the shortfalls within the effectiveness of the system. Is that one of the ones that you generally support in terms of the thrust?

Senator Fifield: I'd need to look at the context of that statement to be of further assistance. If there's a page reference—

Senator URQUHART: Sorry, I haven't got a page reference.

Senator Fifield: That's okay.

Senator URQUHART: I can come back to that.

Senator Fifield: Okay. Sure.
Senator URQUHART: Does the government agree that an e-safety advisory committee be established to meet quarterly to inform decisions?

Senator Fifield: We can go through the entire report clause by—

Senator URQUHART: I've only got two more questions. Don't give up on me yet.

Senator Fifield: I won't. On that one, there are current mechanisms that the Office of the eSafety Commissioner has. Some of these sorts of things, in effect, are already in place.

Ms Inman Grant: We had an online safety consultative working group formed 10 years ago when Helen Coonan was the minister under the Howard government. It has continued to grow. We hold consultative meetings six times a year. We were coming to the same conclusion. The reconstitution of that group and the idea of an e-safety advisory committee that is reconstituted and has a different charter and different way of working is welcomed by us.

Senator URQUHART: Does part of that say that the e-safety advisory committee meet quarterly?

Ms Inman Grant: Yes. Which would be actually less frequently than we're meeting now. Again, I gather, in consultation with the minister and the department, we have the autonomy to deem what is most appropriate given the issues that we have on the matters we're deliberating.

Senator URQUHART: Finally, Minister, does the government agree that the eSafety Commissioner should be the focal point for online safety nationally and for the regulation and coordination of online safety arrangements?

Senator Fifield: Well, the Office of the eSafety Commissioner is a national focus for online safety. There are other arms of government, federal and state, that do have a legitimate interest in online safety.

Senator URQUHART: What about as that focal point for online safety nationally and for regulation and coordination?

Senator Fifield: I think things are trending in that direction when you talk about online safety. Obviously, with the broader issue of cybersecurity, there are other agencies that appropriately operate in that space. When it comes to regulation, I think things are trending that way to the Office of the eSafety Commissioner. But it is also important to recognise that there are at Commonwealth and state levels law enforcement bodies who have an enforcement responsibility. You could consider them to be part of the regulatory framework. I don't want to overstate or understate the significance of the office.

Senator URQUHART: Did you seek advice from the department or ACMA on whether to accept the recommendations?

Senator Fifield: I get advice from the department and ACMA. They've provided useful input. But decisions in relation to a formal response to the recommendations are matters for government.

Senator URQUHART: You sought advice on that?

Senator Fifield: Yes. That's right. What I sought to do in my statement of 16 February was indicate that we thought Ms Briggs had done a good job, that it was a good piece of work, and that we supported the overall thrust of her report.
Senator URQUHART: So what was the overall nature of the advice from the department?

Senator Fifield: I think the department was as one with me on what I've just said.

Mr Eccles: We don't normally disclose advice. In this instance, the view from the department was that the Briggs report will serve us well into the future for some time and guide ongoing policy development as we seek to keep up with what are changing trends in the online safety world.

Senator URQUHART: And the nature of the advice from ACMA?

Senator Fifield: Well, it's an input to the advice that the department provides me.

Senator URQUHART: Sorry?

Senator Fifield: It's an input to the advice that the department provides me.

Senator URQUHART: Is it the same advice or different?

Senator Fifield: It's an iterative process, the provision of advice to a minister.

Senator URQUHART: Did you say that the charter was a statement of government policy? Did I hear you correctly?

Senator Fifield: Yes. It is a policy of the government that there be an online safety charter with the digital platforms.

Senator URQUHART: Is this a top-down sort of charter or an expert community-led charter? I asked earlier about what the process was and what experts were informing the development of the charter. So if it's a statement of government policy, how can it be when you're getting input from anyone interested and experts?

Senator Fifield: It's a policy of the government to have a charter. We have a draft charter which is available for public and community consultation.

Senator URQUHART: Right. So not the actual content but more about the fact that you have a charter?

Senator Fifield: That's right.

Senator URQUHART: Mr Mrdak, did the department prepare any advice for the minister on the merits of the creation of an online safety act?

Mr Mrdak: We've certainly provided advice in relation to, as the minister said, the benefits of moving to a more modern, consolidated piece of legislation. We think that's a very sensible outcome and it reflects the way in which the office has developed and the way in which the issues have developed. It is bringing that together, recognising that the current provisions of the legislation are somewhat outdated and reflect different technology.

Senator URQUHART: Mr Mrdak, how does the proposal for an online safety act sit alongside broader recommendations for holistic reform of the Broadcasting Services Act 1992? Do you think the creation of an online safety act would lead to an ongoing siloed approach to communications regulation in Australia?

Mr Mrdak: I don't believe so. I think both those propositions sit together. There does need to be a modernisation both of the online safety—

Senator URQUHART: Do they sit side by side in silos or do they integrate?
Mr Mrdak: I think over time what we're seeing is a fundamental restructuring of broadcasting that is taking place. There are two major processes underway. This is one of them—the way in which the eSafety office and this area of digital safety has emerged. Separate to this, we've got, as the minister mentioned earlier today, a significant piece of work by the ACCC around the digital platforms and what that means for the future of broadcasting. Mr Penprase and others may wish to comment. I think that where that is heading is most likely to a change to regulatory measures across a whole range of areas which is very broad. It covers the whole range of what has traditionally been broadcasting but which will now start to encompass the digital platforms in a way that probably hasn't been the case to date. So quite a fundamental shift in regulatory structures and legislation is required over the next few years. Mr Penprase and Dr Patteson have been closely involved in that to date. I think in particular Mr Penprase might want to comment. The ACCC report is quite a fundamental rethink of the way in which we may think of broadcasting in the future.

Mr Penprase: I might add that, in terms of the separate legislation, there is already a separate act that establishes the online safety eSafety Commissioner—the Enhancing Online Safety Act. You've got that act sitting there distinct and separate from schedules 5 and 7, which sit inside the Broadcasting Services Act. So in a logistical sense, having the Commonwealth's online safety regulatory framework spread across legislation probably doesn't make a lot of sense in that regard. Consolidation and reform, certainly as Ms Briggs noted in her view, is warranted.

Senator URQUHART: Thank you. Mr Mrdak, page 2 of the report states that the new legislation will need to be technology and device neutral, embracing all relevant platforms, services, distribution access mechanisms and devices and the future state of online and digital communications as far as is possible. Doesn't the creation of an online act already demarcate the regulation around those technology lines?

Mr Eccles: I don't think that's the intent. Bear in mind that this is a document that is designed to inform future policy. Which particular area?

Senator URQUHART: The statement on page 2 talks about it embracing all platforms and distribution.

Mr Eccles: I think the key point by Ms Briggs—it's risky to interpret in too much detail—is that the role of online platforms has changed markedly over the last decade. They have changed from a time when they perhaps had less control over the content that was delivered on the platforms to a point now where they have much greater control through things like algorithms and AI and other means by which they can essentially be far more active in moderating. Some of the regulations, structures and ways that we've regulated the industry didn't take into account the level of sophistication and the role that these players can play.

Senator URQUHART: Mr Mrdak, how would the boundaries of such an act be set given that online safety could relate to issues outside the contemplation of the Briggs report? For example, would restrictions on gambling advertising during live sport be regarded as an e-safety matter? If so, would it make sense to have separate acts for broadcasting and online administered by different regulators?

Senator Fifield: I guess these are some of the issues which will need to be determined. It's a valid point that you raise, given gambling advertising restrictions in live sport, for instance.
We have now made them apply across platforms—TV, radio, online—which is a new development. So that is the trend. Whether an online safety act would include things such as that would have to be determined. But it's a relevant point that you raise that a decision will need to be taken on.

**Senator URQUHART:** Minister, at page 3, the report proposes moving the eSafety office out of ACMA and into the Department of Communications and the Arts, where the department and the eSafety Commissioner could jointly work on policy, strategy and relationships. Do you support that proposal?

**Senator Fifield:** There are some ways in which that would make sense. As Ms Briggs highlights, that would facilitate closer work on policy issues. But that's not an issue that the government has taken a decision on. There are a number of different ways that the Office of the eSafety Commissioner can be hosted.

**Senator URQUHART:** Can I take it, then, that you haven't made a decision about whether you support or don't support that proposal?

**Senator Fifield:** Look, there has been no decision on that.

**Senator URQUHART:** When will there be a decision made on that?

**Senator Fifield:** We have the work of Ms Briggs. We're always looking at the best ways to have administrative arrangements in the portfolio.

**Senator URQUHART:** Mr Mrdak, can you tell me what are the relative advantages and disadvantages of moving the eSafety office into the department?

**Mr Mrdak:** As the report has highlighted, and I think as the commissioner herself has found, there's a lot of work taking place in policy development. The charter is clearly a major and substantial piece of work which will of itself start to drive a lot of regulatory outcomes. I think the growth of the policy development area has highlighted in the last year or so the need for a close relationship between the Office of the eSafety Commissioner and the department. That's the major advantage. The alternative is that it remains with the regulatory role of ACMA. Again, it's a very close working relationship across all of the portfolio entities. There are no issues there. At the end of the day, judgements will be made about efficiency and, most likely, around the alignment of tasks. Obviously, that is very much against the background of what the next five to 10 years look like for the office and what is the best outcome for them.

**Senator Fifield:** I think it's also important to add that the office has been a great success. It's done a tremendous power of good work under both Commissioner Inman Grant and former commissioner MacGibbon.

**Senator URQUHART:** You've pointed out the advantages around policy development and closer relationships efficiencies. Are there any disadvantages to moving the eSafety office into the department?

**Senator Fifield:** I think we're talking about moving and we're talking about administrative arrangements, not the physical location of the office necessarily. But there are many different ways that independent statutory officeholders and the staff who work to them can be accommodated administratively. So the staff that work directly to the former Social Security Appeals Tribunal, for instance, all of whom were statutory officeholders, were technically employed by the Department of Social Services. That's one model. What we have with the
Office of the eSafety Commissioner being located and hosted in an administrative sense in terms of staff by an independent statutory regulator such as ACMA is another model. There are many different ways that you can achieve the same outcome of well supporting an independent statutory officeholder and fully respecting their independence.

Senator URQUHART: So how important is it that the eSafety Commissioner, whose functions include administering complaint systems as well as the online content scheme under the Broadcasting Services Act 1992, retains a degree of independence from the department and, indeed, the minister?

Senator Fifield: Absolutely. The commissioner is an independent statutory officeholder that has legislated duties that they are fully charged with executing. So there would not be anything in contemplation that would in any way impinge upon that.

Senator URQUHART: Mr Mrdak, does the department have a view on the independence of the eSafety Commissioner and whether moving it into the department would actually work in terms of that independence?

Mr Mrdak: I think the minister has just reaffirmed the importance of maintaining the statutory independence for the regulatory roles they've taken.

Senator URQUHART: Would that work if it were moved into the department?

Mr Mrdak: It can and does. As the minister has outlined, there are lots of statutory and regulatory functions performed within departments that have statutory independence. That's not the issue. That will always be the primacy of the outcome. The decision on what is the right structure will very much depend on what is the right and most efficient and effective way in which the office needs to be supported. That will be the judgement that will be made by government.

Senator URQUHART: Do you think the public and industry would regard the eSafety Commissioner to be independent if the office operated within the department? What would be the optics from the public and industry?

Mr Mrdak: I couldn't anticipate a change to the current—

Senator Fifield: And—

Senator URQUHART: Sorry, Mr Mrdak?

Senator Fifield: No decision has been taken.

Senator URQUHART: No. I understand that. I guess I was asking whether you think the public and industry would regard that as still being independent if it were within the department?

Senator Fifield: Statutory officeholders are accommodated administratively in a range of different ways across the Commonwealth. That doesn't impinge upon the independence or the work of statutory officeholders.

Senator URQUHART: So I'll take that as a yes from your comments earlier today? It's a yes or a no.

Senator Fifield: I'm just making the observation that there are many different ways that are appropriate to accommodate statutory officeholders administratively.
Senator URQUHART: Mr Mrdak, to what extent does the department work with the Office of the eSafety Commissioner at present? Can you give me examples of working together? What examples of working together are there? Does the department seek a greater working relationship with the office than you've got at present?

Mr Mrdak: I think it's a very good working relationship. Certainly in my time in the portfolio, it's been a very positive one. The team to my right have worked very closely with the commissioner and her staff. I will give you some examples. Clearly, there is the work that is now underway in relation to the charter and the work that is now underway in relation to the development of the new programs that have been announced by the government both in MYEFO and more recently. They've been the culmination of work that has been done together between the department and the office. As the minister said, I think they are a very successful series of initiatives that the office has now got underway.

Senator URQUHART: If the office were moved into the department, would you be seeking a greater working relationship than currently?

Mr Mrdak: I think Ms Briggs was looking to see what is the best alignment of the policy and to provide avenues for the commissioner to have better linkages with the policy agencies at the Commonwealth level. I think that was very much sitting behind her thinking in relation to the structure. Obviously, in any structure going forward, as the minister said, primacy would be given to maintaining the distinctness of the office and statutory independence. That would not change.

Senator URQUHART: Would moving the e-safety office into the Department of Communications and the Arts help clarify institutional arrangements with the Department of Home Affairs, the AFP and the state and territory police services?

Senator Fifield: They each have their discrete areas of responsibility. The Office of the eSafety Commissioner works cooperatively with all of those entities. That will continue. Obviously, when you have different government agencies who have areas where they cooperate and, in some cases, where they might have a common area of interest, they are always working to further refine those relationships. That will continue.

Senator URQUHART: Minister, page 26 of the report states:

…some processes between the AFP and the eSafety Office are less than ideal. It is possible that there may be enforcement opportunities that are being missed if the two are not proactively working together to share information, identify and chase perpetrators, and fill gaps in that might maximise the effectiveness of the enforcement regime, such as how to action take-down of terrorist material hosted overseas.

Can you, Minister, elaborate on what the processes are that are less than ideal and why?

Senator Fifield: Look, I'll hand over to the commissioner, who can talk to those things that work well and those things where it's important to continually improve.

Ms Inman Grant: The Australian Federal Police is an important partner of ours. We've had an MOU with them since 2013. Since I came into the role in 2017, we've tried to have that MOU updated. Things are moving apace, as I said in my opening statement. When we have any intelligence or information that might lead to the identification of a victim or a perpetrator, we refer that to the AFP. We did so 358 times last year.
I'm serving on the board of management of the ACCCE, which is the new agency that they formed. Tarina here is serving on the prevention and education taskforce. Again, we do have a role as the national coordinator, regulator and online safety education body. We're working through issues around ThinkUKnow, which is an online safety education program that was developed about 10 years ago. I was involved in the rollout of that. It came from the UK Child Exploitation and Online Protection Centre. The AFP brought that over in partnership with Microsoft. It was a novel program in its time. We've been working with Secretary Murdoch on what is called an agency departments head meeting. The whole role there is to ensure that there isn't any duplication or confusion to the public about different efforts that might be taking place at the Commonwealth level. So there are discussions as to where ThinkUKnow might sit with respect to esafety.gov.au and our range of resources in the online safety education space. But the relationship is fine. We work on a regular basis. We're working on a new MOU together at the moment.

Senator URQUHART: Right. What is the timeframe for that MOU?

Ms Inman Grant: I think we will be presenting a new version to them in the coming weeks. We hope to get those discussions underway. That said, our engagement with the AFP is probably on a daily basis on a range of issues. Our cyber report team in particular is working very closely with the ACCCE team as well as the threat assessment centre. We're all committed to working together in the fight against child sexual exploitation, and we have to work together to get there.

Senator URQUHART: Minister, when did you first become aware that enforcement opportunities may be missed because the AFP and the eSafety office are not proactively working together to share information? It has come out in the report.

Senator Fifield: I think the point by Ms Briggs is that there is always scope to improve.

Senator URQUHART: But when did you become aware of that? This is a serious issue, obviously, and you are the responsible minister.

Senator Fifield: I'm the portfolio minister. We have an independent statutory officer in Julie Inman Grant. We have in the AFP independent statutory officers as well. The expectation is that they work to address these areas.

Senator URQUHART: So what actions have you taken as the minister for communications since your appointment to improve those working relations?

Senator Fifield: It's the duty and obligation of those who are charged with these statutory responsibilities to work with each other in the best interests of the community. That's a point that I always emphasise in my meetings with the commissioner and the department.

Senator URQUHART: Commissioner, do you have a view?

Ms Inman Grant: Well, I respect the independent reviewer immensely. She has put her opinion forward. I don't agree with that particular assessment around the relationship. As I said, as we get child sexual exploitation material reported to us anonymously, if there's any intelligence or identifying information that needs to be referred to the AFP, we do so. We have very strong working relationships and MOUs with all state and territory law enforcement agencies as well. All relationships have their strengths and weaknesses. I think ours is on an upwards trajectory with the AFP as well as with the Department of Home Affairs, with whom we also engage on a fairly regular basis. There's never been a time when I
haven't felt that I couldn't pick up the phone and speak to Commissioner Colvin or communicate with him. We communicate on a fairly regular basis. There has never been a time when I've felt that I've needed to bring the minister or the secretary in to adjudicate any kind of dispute. We'll continue to work together. We have to work together. It's an imperative.

Senator URQUHART: It's a pretty strong statement, though, in the report, which says that the processes between the AFP and the eSafety office are less than ideal. That's a pretty strong statement.

Ms Inman Grant: Again, through the MOU, we're working to find the right processes. What I think she means there is about the appropriate threshold. You have to remember that the AFP, in the child sexual exploitation space, gets probably 14,000 reports a year from the National Center for Missing and Exploited Children. They want to ensure that anything we refer on to them reaches the appropriate threshold and that there's a high enough threshold so that they can action and so that we're not adding to the noise, if you will. We have had other discussions about whether or not, say, a cyberstalking and an adult cyberabuse case reaches the point where there is a physical threat of violence or harm. When do we escalate that to the AFP or a state police office? We do that on a fairly regular basis. We look at it on a case-by-case basis. There may be ways we can routinise or regularise those thresholds. That's what we're seeking to do through the MOU so that there are clear processes and thresholds in place and information is flowing both ways.

I'd also note that there are some cases, particularly around non-core child sexual abuse material, where the AFP will report back to us. We have an important takedown function notice. They will do the investigations and they have the criminal powers to go after perpetrators and save victims. Of course, when we have intelligence that can help them do that, we will provide that to them. What we can also help them do is, after a case has been closed and the evidence has been gathered, we work with our international partners through the INHOPE network to take the child sexual abuse content down. Obviously, that's incredibly traumatic for the victims, so the more that we can work with the police to get that content taken down, the better for the victim going forward.

Senator URQUHART: Thank you. Page 26 of the report also states:

Co-operative and collaborative relations need to be established between the eSafety Commissioner, the AFP, state and territory police and the Cybercrime Online Reporting Network as soon as possible.

Minister, when did you first become aware that such cooperative relations were not in place?

Senator Fifield: I think there are cooperative relationships in place, as Ms Inman Grant has indicated, specifically in relation to the AFP. Part of the purpose of the MOU that is being negotiated is to provide enhanced clarity in these areas.

Ms Inman Grant: I would say with respect to ACORN that we have a good working relationship with them. In fact, they now refer all cases of image based abuse to us.

Senator URQUHART: Minister, would moving the eSafety office into the department of communications help clarify institutional arrangements with ACMA?

Senator Fifield: Well, we haven't taken a decision in relation to the administrative arrangements for the eSafety Commissioner.

Senator URQUHART: No. I know you haven't.
Senator Fifield:  So there are limits to which I can speculate or comment on decisions that haven't been taken.

Senator URQUHART:  Well, it's not speculating. It's asking whether it would help clarify institutional arrangements within the ACMA. It's a pretty straight question.

Senator Fifield:  Well, obviously the institutional relationship with ACMA would be different if the Office of the eSafety Commissioner were located elsewhere.

Senator URQUHART:  So it would help to clarify. Page 34 of the report states:

...relationships between the various Chairs of the ACMA and eSafety Commissioners have been poor, with both understandably keen to take full responsibility for their domains. I do not see this changing in the foreseeable future.

Minister, when did you first become aware that relationships between the chairs of the ACMA and eSafety commissioners have been poor?

Senator Fifield:  I think what Ms Briggs is referring to in that particular passage is the natural institutional tension that there can be when you have two institutions, one of which is providing an administrative home for another. I think that is the essence of what Ms Briggs is referring to. All I can speak to is my own observations, which is that the relationships are good between the principals concerned.

Senator URQUHART:  So if there are those national institutional tensions—

Senator Fifield:  Natural.

Senator URQUHART:  Sorry, natural. What have you done in your role as minister to improve those relations and break down those tensions?

Senator Fifield:  As I say, you will always have between different parts of government some natural points where they might from time to time rub against each other. But we have an independent regulator, as the chair of ACMA. We have an independent statutory officer in the eSafety Commissioner. I think both offices do work together.

Senator URQUHART:  But what have you done to try to improve those relations?

Senator Fifield:  It's not my—

Senator URQUHART:  Not your role as the minister?

Senator Fifield:  It's not my function to tell independent officeholders how they are to go about their business.

Senator URQUHART:  No. But surely if there are some tensions, you as the minister would want to—

Senator Fifield:  All I can speak to is my own knowledge. I don't think that these are personal tensions. I think these are institutional matters. We commissioned an independent review for a purpose. We have had a statutory obligation to have a review of the office of eSafety and the operation of the act. That's occurred. Ms Briggs has given her advice, part of which is that we look at the administrative arrangements for housing the Office of the eSafety Commissioner. That's what we shall do.

Senator URQUHART:  Minister, the Briggs report highlights problems in the relationship with the eSafety office in a number of areas. Does this concern you at all?
Senator Fifield: Well, we commission independent reviews for a reason. I would be amazed if there were any independent review commissioned about any government agencies and their interactions that said that all had achieved a state of nirvana and that there was no scope for further enhancement.

Senator URQUHART: Are you aware of any industry or charity sector concerns with the conduct of the eSafety Commissioner or office?

Senator Fifield: No.

Senator URQUHART: Minister, the covering letter to the Briggs report notes that major reform is needed to strengthen the regulatory regime and bring it into line with community expectations. Is this statement supported by any particular research or evidence?

Senator Fifield: Sorry? By the reviewer?

Senator URQUHART: Yes.

Senator Fifield: I'll ask the department if they are able to shed advice.

Mr Eccles: I think the review speaks for itself. Obviously we have had it for a short amount of time. As I said, it's going to shape advice for the foreseeable future. I think something we all accept is that it is absolutely vital for our regulatory regime to keep pace with such a rapidly changing world. I think that some of the changes in play and some of the improved coordination mechanisms across government—the way that we're working with platforms and others—supports the fact that it is such a dynamic place. It's going to be vital that our ability to regulate in a timely manner keeps up with the pace of change in the world that we're living in.

Mr Penprase: One of the factors that was driving Ms Briggs's conclusion was the sheer complexity of current schedules 5 and 7 in the BSA. She did note, in forming that view, that there could be merit in simplifying those existing structures to try to make them easy to use and to work effectively, as Mr Eccles said, in a contemporary media environment.

Senator URQUHART: Thank you. Minister, do you think the report gives due regard to the proactive efforts already being undertaken by social media platforms? The executive summary of the report states that new legislation is required to:

...require industry to build online safety into its design arrangements and to proactively patrol, detect and remove harmful or illegal content—

Yet the industry is already doing both of these.

Senator Fifield: Well, the industry is making some efforts in that regard. But I think that the community view would be that they can do more and should do more. That's really the genesis of the charter that we're proposing; it is to outline on behalf of the community what the government's expectations are of these platforms. As I said when we announced in December that we were going to be having a charter, we've demonstrated before that if we don't think that the platforms are doing all that we expect that they should, we won't hesitate to legislate. We did in the case of kids cyberbullying material. We did in the case of the non-consensual sharing of intimate images. My expectation is that we will and should—I would disappointed if we don't—get the full cooperation of these platforms. But if that weren't forthcoming, we would look at legislative options.
Senator URQUHART: Minister, are you satisfied that there was adequate consultation with the social media companies who are the subject of the legislation the office administers?

Senator Fifield: Are you talking about consultation by the independent reviewer with those—

Senator URQUHART: Did the independent reviewer meet with the social media platforms?

Senator Fifield: My understanding—

Mr Eccles: Why don't we give you an update? I need to stress that these meetings cannot be seen in isolation to the submissions that were provided. There was a comprehensive submission provided by the group that represents the social media platforms. The group DIGI provided an input. The ones that we can confirm Ms Briggs met with—these are the records that we have; it could well be added to once we get a chance to speak to Ms Briggs who, as you are aware, is on other important business—are the following organisations. The dates goes to the question you asked earlier. There was ACMA on 29 June; the eSafety Commissioner on 2 July; the department on several occasions but including 6 July; the Australian Cyber Security Centre on 18 July; the Communications Alliance on 20 July; ReachOut on 24 July; Alannah & Madeline Foundation on 31 August; the ACCC on 9 October; the Department of Home Affairs on 17 October; the Department of Finance on governance matters on 17 October; and the AFP on 23 October. We know that Ms Briggs met with the Public Service Commission as well. As I said, this is a decision that Ms Briggs made to get information that was supplementary to what was provided in the 27 submissions that were made. So it's a job lot, if you know what I mean.

Senator URQUHART: Yes. Thank you. I've got about seven questions left. They should be fairly quick. Commissioner, I'm interested in understanding how you leverage the proactive work being done by industry and the community or charity sector to promote e-safety.

Ms Inman Grant: Can you reframe the question? Do you want industry or—

Senator URQUHART: I'm just interested in your understanding of the work that has been done.

Ms Inman Grant: Well, the fact is that that's a very important part of what we do and why we reformed as a national coordinating body and why we have bodies like the online safety consultative working group. We've got 40 different experts from the NGO sector, different government agencies and most of the major platforms. So—

Senator URQUHART: I want to give you one initiative, which I'm sure you're familiar with. It was undertaken by Facebook in Australia, Canada, the UK and the US to deal with the non-consensual sharing of intimate images—basically to stop the sharing of harmful content before it has been shared.

Ms Inman Grant: Yes.

Senator URQUHART: What do you make of this pilot, which creates a way for people to securely submit photos they fear will be shared without their consent so Facebook can then block them from being uploaded to Facebook, Instagram and Messenger?
Ms Inman Grant: We are, in fact, Facebook's local partner for this pilot, because we are the image based abuse portal and reporting team. It has very tight criteria. I commend Facebook for trying to get ahead of the problem and prevent the images from being uploaded in the first place. I think it's a great initiative. Unfortunately, it's only for people who are over the age of 18. Under the age of 18, it's considered child sexual abuse material, and they have obligations as a US platform to report to NCMEC. The second criterion is that they have to have the images themselves. What happens is that a digital fingerprint or hash is taken so that they can run them across their networks. Many of the women, mostly, who have come to us and who have been potential candidates for the pilot haven't had the images in question to be hashed. We've put the option forward to two potential Australian victims. Of course, we go through all the ins and outs, all the risks and benefits. For whatever reason, they declined to participate in the pilot.

Senator URQUHART: Is that a tool that you have utilised or leveraged apart from that example?

Ms Inman Grant: We have made it available to victims who have come to us where we've helped them remove their images or who come to us with what we call the threat to share. This is what this pilot helps address. We have put that forward to candidates that meet the criteria, but none have taken it up.

Senator URQUHART: Another example is that of the partnership between the Supre Foundation and the Alannah & Madeline Foundation. It aims to encourage young people to have conversations about consent with their friends and family before it's too late. This partnership situated resources in a popular shop with the age group. Is that something that you're—

Ms Inman Grant: Actually, we're referenced throughout the Supre guide. I think Alannah & Madeline refers to it as image based bullying rather than image based abuse. But there is a whole section. They've used some of our research. They have our reporting tools in there. We had a person from the office sit on the advisory committee of the Supre and Alannah & Madeline Foundation product in the development of this resource.

Senator URQUHART: That's all I have. Thank you, Chair.

CHAIR: I would like to apologise to you, Commissioner. You've been called here at the request of senators and barely had a question to you. We've had a couple of agencies like that today. I think this committee will consider having witnesses attend via teleconference facilities rather than spend a day travelling.

Ms Inman Grant: And I so enjoy this comfortable chair! I've told you that before.

Senator URQUHART: Before we break, Senator O'Neill has asked the department to provide some information today on questions she asked this morning. I don't know what they were. Has the department been able to locate that information? Can you provide it now or after the dinner break?

CHAIR: I suspect after the dinner break, yes.

Senator URQUHART: She didn't give me the content.

Mr Eccles: I can do it now.

Senator URQUHART: Terrific.
Mr Mrdak: I think this is the relevant one she is after.

Mr Eccles: This relates to Australian content in the Pacific. We became aware from discussions with other departments in the second half of 2018 that there was interest in exploring the provision of greater Australian content to the Pacific Islands. We provided input and advice on how that might be achieved. The Prime Minister made an initial public statement of a plan to work with commercial media operators, on 8 November at a speech in Townsville. The public statement announced that there would be a further level of details on 17 January.

Senator URQUHART: Thank you very much.

CHAIR: Thank you.

Proceedings suspended from 18:35 to 19:35

CHAIR: We will reconvene. Welcome to Mr Rue and officers from the NBN. Before we get into NBN, Senator Urquhart has a couple of clarification questions.

Senator URQUHART: Yes. I'd just like to clarify a few quick points from the questions of Senator O'Neill regarding the Pacific TV announcement. Mr Mrdak, are you able to answer those? Or do we have officials here who could answer those?

Mr Mrdak: In relation to Pacific?

Senator URQUHART: Yes, the TV announcement.

Mr Mrdak: Yes. I'll get Mr Eccles to come back to the table and join me.

Senator URQUHART: Fantastic. That would be lovely. Did the Prime Minister's $17 million Pacific TV announcement go through the usual Commonwealth procurement process?

Mr Mrdak: The decision has been taken to negotiate with Free TV as the representatives of the Australian commercial industry.

Senator URQUHART: Yes, but did that go through the usual Commonwealth procurement process?

Mr Mrdak: No. It's a decision to go directly to Free TV, and we will then—as we discussed this morning, we are currently in the process of developing a contract with them.

Senator URQUHART: So no steps were taken to comply with that process?

Mr Mrdak: It's a decision of government to proceed direct to that supplier.

Senator URQUHART: So it wasn't a competitive tender process?

Mr Mrdak: No.

Senator URQUHART: It was a closed tender process.

Mr Mrdak: It's a direct approach to Free TV.

Senator URQUHART: Okay, great. That's all. Thank you very much.

CHAIR: Thank you.

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[19:38]

CHAIR: Mr Rue and colleagues, do you have an opening statement you'd like to make?

Mr Rue: I do, Chair. Would you like me to carry on?
CHAIR: If you have an opening statement.

Mr Rue: I do, yes.

CHAIR: Go for gold, and then we'll proceed to questions.

Mr Rue: Thank you, Chair. I'm genuinely pleased to be here today as I do think that scrutiny of expenditure is an important part of the democratic process. But before taking questions from the committee, I would like to make this short statement. I have with me today Katherine Dyer, our chief network deployment officer, and Mr Brad Whitcomb, our chief customer officer for our residential business.

Yesterday, we released our results for the first half of fiscal year 2019, and I'm very pleased to report that we are one step closer to our goal of connecting Australia and we're tracking well to our 2020 targets.

In the six months to December 2018, our revenue was $1.3 billion, a 46 per cent increase from the same period a year ago. This was drive by a 38 per cent increase in active premises to over 4.6 million by 18 December, a figure that has continued to increase to over 4.8 million this month. Our premises ready to connect increased by 32 per cent to 8.1 million at the end of last year and well over 8.3 million this month. Our increase in revenue has also been driven by an increase in ARPU, up from $44 to $45. This is positive news because strong revenues are essential to sustaining the NBN business model, protecting the investment that the government and all Australian taxpayers have made in the company and ensuring the business has sufficient cash flow into the future to continue to invest in the business.

Despite some recent commentary, increased ARPU is not the same as increasing prices. Our prices have not increased, not even by inflation, since we billed the first customers on to the network. In fact, they have been reduced significantly. The lift in ARPU will be from increased revenue from the business sector and from people moving up the speed tiers as demand increases over time. Specifically on business, we remain on track to deliver around $1 billion in annual revenue from business by 2022.

Regarding speed tiers, it is very important to remember that this was not an option on ADSL, where the average speed was eight megabits per second and residential customers could not buy a faster speed no matter how much they needed it. The NBN model, on the other hand, is based on users choosing to purchase higher speed plans as their demand increases, and we are seeing exactly this. At the end of last year, 56 per cent of people were on speeds of 50 or above. This is up from just 16 per cent the year before. This trend will only continue as homes and businesses consume more data, connect more devices and take advantage of the full capability of the NBN network.

The retail prices that end users pay for broadband is a combination of many inputs, including the service level that RSPs provide, their positioning and offering in the market, the other services end users may choose to bundle together and the operational efficiency of different retail businesses. This is why we see such variation in retail prices despite the wholesale prices being the same for all RSPs. When talking about prices, it is not enough to simply compare the price in Australia with the price overseas. It is well known in economics that the price of non-traded goods will always be higher in richer countries than in poorer ones. Economists call this the Balassa-Samuelson effect.
We recently commissioned the research firm AlphaBeta to compare retail prices in Australia to prices overseas. When performing this research across over 4,500 products and pricing plans in 22 countries, AlphaBeta adjusted for this effect and took into account household income, giving a better measure of affordability when comparing broadband prices between countries. AlphaBeta also managed to separate out other bundled products to enable a like-for-like comparison of just high-speed broadband access. The analysis reveals that Australia is one of the more affordable markets for broadband. The median broadband price in Australia is equivalent to 1.4 per cent of Australian per capita income, which is the seventh lowest amongst the 22 countries analysed. This should come as no surprise, as we must continue to remind ourselves that one of the original policy goals of NBN was to enable more competition in the retail market through providing a wholesale only, open access service to any retailer who wanted to sell a product. It is good to see this policy goal playing out as intended.

While broadband affordability is very important, the experience people have on the network is just as important. As the committee knows, customer experience has been something of a North Star for the company and we continue to make significant progress. The experience people have connecting and using the network is a shared responsibility between NBN and retailers. This shared responsibility is sometimes misunderstood, so it's important for me to emphasise the point. While it is our job to make sure the network is operating properly and that technicians turn up on time, the retailers are accountable for communication with the customer, addressing in-home wiring and wi-fi issues, the provisioning of bandwidth and educating customers on selecting the right NBN plan. Amongst our responsibilities is, as far as is practicable, to connect premises right the first time, within the time frames agreed with our retail partners, and when a fault occurs, as far as is practicable, to fix the issue right the first time, again within agreed time frames. We report our progress against these responsibilities publicly on our website and continue to see year on year improvements. I can assure the committee that we have a relentless focus on continual improvement in this area.

As I've said before, the next step change in customer experience is to be found in the home. Although this domain strictly lies with our retail service providers, since October last year we have been running a central splitter trial to resolve in-home wiring issues in selected homes. These were homes where we could see the speed or reliability issues in all likelihood being caused through in-home issues. Initial results are promising. After installing the splitter for these selected homes we have seen an average increase in attainable line rate of 11 megabits per second downstream with three megabits per second upstream. For a sub set of premises that were reporting instability in their service approximately 70 per cent became stable after the work was completed. And we've extended this trial until the end of March this year, and we'll use the data to further refine the way we identify these premises while also sharing it with our retail partners, so they have the ability to improve the overall customer experience. It is also true that a consumer's wi-fi experience is an essential part of that overall experience. We continue to educate consumers on this and it is encouraging to see that our retail partners are also increasingly focused on in-home wi-fi.

Finally, it is important to remember why NBN is here and some of the tremendous positive impacts that arise from universal connectivity across a country like ours. Again, we must reflect on the policy goals for NBN. In this case, to create economic and social benefits to
Australians be it productivity benefits or better and more equal access to healthcare or education services.

We know from the *Connecting Australia* report that NBN has already made a huge difference socially and economically to the lives of Australians. The report found that by the end of the roll-out in 2020 the NBN access network is expected to be contributing more than $10 billion a year to the economy. From a social viewpoint, the benefits are everywhere. Children who previously couldn't even send an email can now see their teachers and interact with classmates online. Businesses can now stay in small towns rather than having to move to the city to access online markets. We see women who are starting new businesses every day, and people who are now able to work from home, accessing employment opportunities that previously would have been more difficult. None of these gains could be possible without the people of NBN who work hard every day to connect Australia.

This year NBN turns 10 and I think everyone would agree that a lot has happened in the last decade. And without going too far down memory lane it is worth mentioning highlights such as setting up and growing a new company from scratch. Getting contractual arrangements in place with regulators, retailers, suppliers and delivery partners. Negotiating the Telstra definitive agreements—the biggest corporate deal in Australia's history—and then doing it all over again a few years later. Constructing the transit network right across the country, building IT systems to handle multiple technologies, and interactions with retail partners and delivery partners. Billing systems and business to business interactions. Designing, building and launching into space two bus sized broadband satellites. And being the first in the world to deploy FTTC at scale. There are many other achievements along the way, but in the end perhaps the most important thing is the uplift in the service Australians can get on the NBN.

A decade ago the ABS estimated that only 10 per cent of Australians had access to advertised broadband speed above 24 megabits per second. Over the last 10 years NBN has been systematically lifting that number to 100 per cent. We sometimes remember this one fact, in 2020, wherever you live in this great country, you'll be able to order a fast broadband service. We have built a great national asset and I'm convinced that the future for NBN is bright beyond 2020. But until then, there is still a lot to do and next year will pose challenges. However, it is important to reflect on how many people are already using this great asset and the ways in which it's impacting people's lives every day. The credit for this should, therefore, go to everyone who has worked on this journey over the last 10 years, and in particular the past and present employees of NBN and our partners should be congratulated. With that, I do thank the committee and we look forward to answering your questions.

**CHAIR:** Thank you, Mr Rue. Senator Martin.

**Senator MARTIN:** Mr Rue, happy 10th birthday!

**Mr Rue:** It's in April actually, but it's worth mentioning today.

**Senator MARTIN:** Surely. Can you tell me how many fixed wireless towers there are in Tasmania?

**Mr Rue:** I'm sure that we have some people listening to the broadcast. I'm sure we can get that for you.
Senator MARTIN: Out of those fixed wireless towers, are there any affected by congestion?

Mr Rue: There certainly are some. Again, let me get the details for you. So, how many fixed towers are in Tasmania and—

Senator MARTIN: Yes, and how many of them are affected by congestion?

Mr Rue: Yes.

Senator MARTIN: And that leads on to my third question: the time frame for that congestion to be resolved. I presume that you're making every current effort to have the problem resolved. Will you let me know the time frame as well?

Mr Rue: Yes. I can give you a broad answer for that and then I could get you the specifics. I've just got a message from the team saying that they are getting the information for you. As I hope you know, in the last corporate plan we invested another $800 million in fixed wireless capacity. That's throughout Australia, of course. The commitment we made at the time was that we would have that investment to the point that, by September this year, we would have one per cent or less of sales providing, on average, six megabits per second at busy hour. I know that we're well on track with that investment. The team has looked at the sales which are most congested and we have prioritised the program towards the sales that are most congested. I appreciate that may sound like a long time frame, but there is the time it takes for engineering and the time to get land access. Some of those towers we share with others and that's why it takes some time. But that program is on track to get to the level of congestion, or lack thereof, that we said we would by September this year. Specifically on Tasmania, if you hold that question, we'll have that by the end of the session for you, I'm sure.

Senator MARTIN: Has the NBN responded to the Regional Telecommunications Independent Review Committee?

Mr Rue: We provided some advice to the department following the regional telecommunications review. The department has taken that advice—which Mr Murdoch might want to comment on—and I think there will be a response from government in due course.

Mr Mrdak: That's right, Senator. We've drawn on the advice. There were a couple of recommendations of the regional review committee which went to NBN issues, particularly around Sky Muster but also the forward planning. NBN has provided advice to us and that's been provided to Minister McKenzie as part of developing her response to the review.

Mr Rue: There are 155 fixed wireless towers in Tasmania; there are another two in design. And we'll get to your second question in a minute.

Senator MARTIN: Thank you. Could you please update me on their response to the committee's recommendations around the NBN, with regard to the regional telecommunications review?

Mr Rue: I missed your question—sorry.

Senator MARTIN: My original question was: has the NBN responded to the review? I'm asking now: could you update me on how they responded to the committee's recommendations around the NBN?
Mr Rue: The advice that we provided was through the department, and it is the government that will respond directly to the response.

Mr Mrdak: As I said, there were two principle areas which the review covered. One was Sky Muster and future services. Mr Rue might want to comment on some of the new product which is coming through on Sky Muster. The other one is in relation to forward planning for the NBN, in terms of its investment strategy. Again, you might want to comment.

Mr Rue: Yes. There was much in that report that I think is helpful for government to think about going forward. Specifically on satellite, as you'd be aware, we have satellite services across Australia. We have about 93,000 premises using the satellite service. One of the challenges that consumers have is capacity on the network. In other words, they would like to be able to use more data on a monthly basis. What we have looked at is something we were working at prior to and during the regional telecommunications review. What we were looking at were ways in which we can increase that data allowance. We will be launching in coming months something which we call Sky Muster Plus, which enables us, through using what's called Layer 3, which means we can see the type of data that's coming through, to be able to not count in data caps things like email access, general web browsing or software updates. If people have a big software update come through, that often takes a lot of capacity off the data allowances. That will enable regional and rural Australians to be able to do things like continue to check weather, to be able to continue email friends, which you would appreciate. I was up two hours west of Mount Isa a few months ago and, talking to people, you understand that their need, for example, for weather checks is really important for regional and rural Australians. We will also be looking, with that capacity for Layer 3 services, to be able provide more education services, again, to ensure that education is not counted in data allowances.

Going forward, we may be able to look at ways in which we can use the 101 spot beams. Some of them are not highly used, so we will be able to look at ways we could increase data across the country. That is one example. With fixed wireless, we have again been—what I was talking about earlier—investing $800 million more in the fixed wireless network to provide greater capacity and, again, that was part of our response to the committee of what we are currently doing.

Senator MARTIN: You mentioned Sky Muster?

Mr Rue: Sky Muster Plus yes.

Senator MARTIN: Plus, sorry. When could residents in Tasmania expect to be hooked up to that service?

Mr Rue: Sky Muster are two satellites that were launched several years ago and they cover the whole of Australia. As I said earlier, we have 93,000 premises on Sky Muster. It serves a customer base of around 400,000 homes across the country. So people in Tasmania who wish to acquire satellite service can do so today. It is a technology which, for many people who hadn't got services at all, is now providing terrific broadband services, but, again, we are working on ways in which we can improve it for additional capacity for education services. We are also looking, in the second half of this calendar year, to be launching enterprise satellite services as well. These will be services for businesses, particularly in rural
Australia like mining businesses, for example, enabling things like precision agriculture, which will provide great services to regional and rural Australians who need it for business.

Senator MARTIN: Is there anybody on the board of NBN with regional and rural experience or expertise?

Mr Rue: That was one of the questions in the recommendations from committee. There are many members of our board who have experience in telecommunication industry which have served for many years regional and rural Australians and we have people on our board who work, for example, in the energy sector, who are, again, very familiar with the needs of regional and rural Australians. I can tell you that it is a topic that takes up time at each of our board meetings. It's of great interest to board members. The board does look at the skills and capabilities as is required under normal governance process on a regular basis. As and when positions arise on the board, it's certainly something that the chair and the government, I'm sure, will discuss ongoing needs for regional and rural experience; although, currently, on the board there are many members with that experience.

Senator MARTIN: When you talk about experience, is that business experience where they go out into the regions and visit or are we talking about people who have lived in regional—

Mr Rue: Both.

Senator MARTIN: Both, okay. Thank you. That's all I have at the moment.

Senator URQUHART: I've got some questions just following on from Sky Muster, so I'll stay on that theme. Can I just say, and I may live to regret this, that we are intending on keeping this short, because we had the NBN joint committee earlier last week. I may regret saying that, because I might backflip—

Mr Rue: It's lovely being here, thank you! Can we go yet?

Senator URQUHART: Not quite so soon, Mr Rue! I was going ask for an update on the Sky Muster business products. You've gone through the Sky Muster Plus in some detail. Do you have anything further to add on that? I'm interested in the business-grade services.

Mr Rue: I'll try and give you a little bit more information. This is something that we've been pursuing for quite a while. What it means is that there is additional equipment that needs to be put in our ground stations; it means that there's additional IT work that needs to be done. In fact, people in Katherine's team are busily managing the process of that today with a third-party provider. We will be expecting that to be able to have a product launch, as I said, in the middle of the year towards the second half of the calendar year. We'll obviously do something that is early stage so that we make sure that we get any glitches or any issues that sometimes arise from these things, but I'd be hoping to be launching that service at scale certainly this calendar year.

What I can tell you is that our sales team are speaking with various companies in regional and rural Australia who have a great need for these services. While it is a good revenue stream for us, I also, actually, to be honest with you, am driven by the fact that I think it's going to provide services that businesses are crying out for in regional and rural Australia, and I assume that's why you're asking the question. Katherine's team actually manages that. Katherine, is there anything you want to add?
Ms Dyer: No, that's correct. We are looking at mid-calendar year to have our initial product launched to the market, and that is on track. Again, we will do a soft launch with RSPs to trial all of our connection processes, but I'm working very closely with Brad's team on that.

Senator URQUHART: That's a product launch in the mid-calendar year. That doesn't mean to say that it's actually available, does it? So what's the process from a product launch to it then being available for businesses? What's that sort of time line look like?

Mr Whitcomb: It's actually really onboarding the RSPs to ensure that they're able to then take our wholesale product and turn that into a retail product.

Senator URQUHART: Is there an anticipated date that it will be available for businesses?

Mr Whitcomb: Before the end of the calendar year.

Senator URQUHART: That's before the end of the calendar year? So you have the soft launch about mid-year?

Mr Rue: That's correct.

Senator URQUHART: So it's only a matter of months?

Mr Rue: That's correct. My colleagues can tell you it's something that I've been pushing the teams to do fast, because I think, yes, it's a revenue opportunity, but I do know that the demand is there and the need is there, and I'm keen to serve that need.

Senator O'NEILL: If I can go to some questions about that old chestnut service class 0.

Mr Rue: Sure.

Senator O'NEILL: According to the NBN weekly report, there are currently 1.4 million premises which are not currently ready for service. What proportion of that 1.4 million are HFC?

Mr Rue: The vast majority. Do you have the numbers, Katherine?

Ms Dyer: Just under a million of those premises.

Senator O'NEILL: If you have the actual number—

Ms Dyer: We can get the exact figure. That's no problem.

Mr Rue: Is that the recent report you're talking about, Senator O'Neill?

Senator O'NEILL: The weekly report.

Mr Rue: I can give you the number as at the end of January.

Senator O'NEILL: Thank you.

Mr Rue: It might be worthwhile, Katherine, if you talk through the reason why there are so many.

Ms Dyer: Absolutely. What we did with the HFC network, essentially, with the freeze, was we ring-fenced the premises and made them service class 0, if you like, so customers couldn't place an order on them. We did that very much with a customer mindset whilst we optimised the network. We continued to construct in those areas, and we also constructed in new areas.
So, what you essentially see happening in the numbers at the moment and why there is a large percentage of HFC there is that we've quarantined those premises, optimised them, and now we're working very closely with the RSPs to release them. In January we reached our peak for service class 0. The reason we did it this way was that we found through our construction trials that it was much more efficient if we transferred the network over the NBN and we ring fenced it and then we optimised it. It was a much more efficient way, from a construction point of view, and we got a lot of efficiencies in managing network outages. So, it was a very deliberate move that we made to take that approach.

Senator O'NEILL: Perhaps I can go to the situation of the number of premises that have been service class 0 over a period of time. In quarter 4 of 2017 there were one million premises not ready to connect. In quarter 2 of 2018 it remained at one million. By quarter 3 of 2018 it increased to 1.4 million. What was the driver of that increase from one to 1.3 million?

Ms Dyer: Essentially what you saw happening there was what we call the fresh HFC footprint—the new HFC footprint. It would be interesting also to look at our RFS number. Compared with where we were forecasting to be on our budget, we're the same amount of premises over our RFS number. So, again, it's the factor of us bringing all those premises over to NBN, if you like—all those areas from our engagement with Telstra and asset transfer. So it's us now bringing that network over, ring fencing it so that these customers aren't being communicated with. They're totally quarantined whilst we optimise and complete the build and then we're gradually releasing them back out to the market.

Mr Rue: Basically because both Foxtel and BigPond are on a Telstra service, we need to—Katherine needs to—get access to that service so we can optimise it, do what we call the final engineering on it. Ready for service is really a definition of when we take ownership of the asset from Telstra, if you like. It is not when we make those premises ready for sale or ready to connect to the community. Really the ready-for-service number is a mechanism of transfer. You shouldn't consider that they are premises in the old definition we used to have, which is why we introduced ready to connect—ready to connect to the premises really that are for sale. In coming months you will see that number dramatically reduce, because by the end of this month all the premises that we cease the sale on will be released back to sale. And there's a lot of footprint that will be released in coming months that will take that, which are ready for service—Katherine's finishing the optimisation work. We'll then make them ready to connect.

Senator O'NEILL: If you can provide me with any detail and time lines about exactly where that's going to be, on notice, that would be appreciated.

Mr Rue: I'm sure we could have a look at that. I won't be able to tell you exactly, but let me hold that thought, and I'll give you an estimate in a second on that.

Senator O'NEILL: What I'm asking for is a more considered outline of your progress that you anticipate.

Mr Rue: No, I understand. I can have a look and see if I can find that for you in a second. I think you really should think of those premises therefore as different than, for example, an FTTP or an FTTN—what you call service class 0; we call them zeros and 10s, which is slightly different, because they're areas that we're still working on, for whatever reason, whether it be a heritage building or something. That is probably what you have in mind as
service class 0. The answer to your question is that at the end of January—we had 1.404 million premises that were under that definition unserviceable. Of that, 1,000,251 were HFC. It was for that reason that—hopefully we've explained it. It's a hard concept, but hopefully we've explained to you why that's the case.

Senator O'NEILL: I've got a couple more questions that might interact with what you've just told me, but I'll ask them nonetheless, just to be clear. In November 2017, when NBN announced the HFC pause, there were about 300,000 premises that were not ready to connect, and with the announcement of the pause this increased to a million. Given public guidance at the time was that there'd be a six- to nine-month delay, why, after nine months, were there still over a million premises not ready to connect?

Mr Rue: Again—I hope I can explain this to you well—the six to nine months was the program; it wasn't necessarily any individual home. Because of the extra engineering work that Katherine's team had to do where they—to use Katherine's phrase—were frozen, plus the engineering work that we're doing as we continue on with the program, the whole program has shifted by six to nine months. That was why, when you asked me about the financial impact, I was able to tell you there was a six- to nine-month delay in revenue. It was the program that shifted. There are individual homes, which, in November 2017, were available for sale and which I've just said will become ready for sale this month, so that's clearly more than six or nine months. But the whole program, on average, had a six- to nine-month shift to the right. Does that make sense?

Senator O'NEILL: I understand. My next question is: has the HFC pause been longer than the initial six- to nine-month delay, which was flagged, even on the terms you've just indicated to me?

Mr Rue: No. It's closer to nine months than six months, I do acknowledge that, but it hasn't been outside that time frame.

Senator O'NEILL: I understand. My next question is: has the HFC pause been longer than the initial six- to nine-month delay, which was flagged, even on the terms you've just indicated to me?

Mr Rue: That's because, in order for Katherine to do the final piece of engineering work, she needs to get access to the live network. To get access to the live network means the assets need to be transferred to us. That's the definition of ready for service. It's not—

Senator O'NEILL: Have the premises that were initially paused been taken out of the pause or not?

Ms Dyer: By the end of February—

Mr Rue: By the end of February they will have been, yes.

Ms Dyer: By the end of this month all of those ring fenced premises will be released back. What's essentially happened is that, from April last year, we started releasing the HFC network gradually back and testing all of our processes again. By June and July, we started releasing them back at scale. They were the premises that we ring fenced. What you started seeing in November last year was that we started releasing new footprint that we've never released before. Because we've been building out a lot of new areas in HFC, whilst we've been taking the premises out—because, obviously, we're taking those ones out first—we've been adding premises in. New ones are coming in and the frozen ones are coming out. It's a matter of timing, from a construction point of view.
Senator O'NEILL: What proportion of the HFC premises do you expect to release in the near term?

Ms Dyer: I could give you the profile for the next few months, but we are at scale and—

Senator O'NEILL: The profile would probably be more helpful than just a general statement, so can you go through that for me.

Ms Dyer: I will get that for you.

Senator O'NEILL: You haven't got it? We'll come back to that?

Ms Dyer: If you would like the exact number, I can come back to you on that.

Senator O'NEILL: Fantastic. That would be more helpful.

Mr Rue: We'll see if the team has that, Senator.

Senator O'NEILL: Just to be clear: what proportion of the HFC premises do you expect to release in the near term?

Ms Dyer: Okay.

Senator O'NEILL: Is NBN Co still accruing new HFC premises that are not ready to connect in significant numbers?

Mr Rue: Again, yes. Katherine does a certain amount of work in an area and then we get access to the live network to complete the engineering work, so you will continue to see additional premises ready for service. Additional premises will, therefore, come in which are—to use your term—service class 0s. But more are going to be released than come in, so, from now on, you'll see that number come down each month, if that makes sense. Some will come in but more will come out.

Senator O'NEILL: Okay. When do you anticipate that large numbers of HFC premises will be released for sale? At the end of the month?

Mr Rue: Quite a lot of HFC premises will be made ready to connect—quite a lot in the next four months. We're just getting that number for you now, Senator.

Senator O'NEILL: That's the breakdown you're going to give me in the near term—to the financial year end.

Mr Rue: It's a significant number, though.

Mr Whitcomb: We're selling about 14,000 a week already. That's clearly the average over the last six weeks. So we are scaling up and selling—

Senator O'NEILL: HFC in particular?

Mr Whitcomb: Yes, specifically HFC.

Senator O'NEILL: Into areas where that's the only option for people if they want the NBN broadband connection?

Mr Whitcomb: Yes, where we have HFC as the access network, yes.

Senator O'NEILL: So they have to purchase HFC because that's their option. Has the NBN Co changed the criteria that it uses to declare an area ready for service?

Mr Rue: No.

Ms Dyer: No.
Senator O'NEILL: So what is it with the HFC—there's no change at all, even though you've just given me all this explanation about optimising HFC and—

Mr Rue: No, Senator. The definition is when we get access to the network. That's what we've used. It's that now we just do the extra piece of work that we're ensuring that the premises for Brad to sell are at a level that we're happy with the engineering work. Not only that, but then when the team come in to actually connect a customer, a lot of the engineering tests have been done, so that the connection is much more seamless.

Senator O'NEILL: So there is a change?

Mr Rue: There's not a change in the definition of 'ready for service'. There is more engineering work that we are doing before we make them ready to connect, but there's not a difference in definition.

Senator O'NEILL: Between 'ready for service' and 'ready to connect', or—

Mr Rue: For 'ready for service', you asked me. There's no difference in how we have been defining 'ready for service'. We brought in the 'ready to connect' metric, I think, two years ago, and that was a deliberate, further clarification of when areas are actually ready for Brad's team to sell into.

Senator O'NEILL: Thank you very much.

Mr Rue: Hopefully I'm helping you, but I'd encourage you to look at the 'ready to connect' numbers, because they're the areas which we're actually actively selling. We're not selling the difference between 'ready to connect' and 'ready for service'.

Senator O'NEILL: Thank you. We'll come back when you get that—

Mr Rue: The team tell me they're still looking for it. We'll get you those.

Senator URQUHART: I've got some questions around the peak activations period. My understanding is the financial year 2020 is the peak activations year for NBN; is that correct?

Mr Rue: I believe it is. Let me just check the corporate plan. I think there are two million premises that year in our corporate plan, from memory. That would make that the peak year, yes. Yes, you are correct. Fiscal 2020 is the peak year.

Senator URQUHART: So how would you compare the user experience for an HFC activation to an FTTC activation? Which is the more seamless process?

Mr Rue: It depends, is the answer to your question. Let me give you a general answer, then Brad can give you a fulsome answer on it. With fibre to the curb, what we have been doing is improving the self-install kits—effectively, the self-install experience. What that basically means is—

Senator URQUHART: That sounds like fun: 'the self-install experience'. Please explain it. I've never heard that before.

Mr Rue: Maybe I should explain—

Senator URQUHART: Does that mean you have to get out and put your own NBN on? Sorry, I'm digressing.

Mr Rue: Again, it in part depends on the retailer, because the retailer has the relationship with the end user. Some of the retailers send out a really lovely package in a nice box with modems and the device that you plug into the wall to actually make the service start to work
with a really clear instruction kit. Equally, Katherine's team has been doing lots of work to ensure that things like the copper lead-ins to homes are actually in place and in condition to ensure that, when that service is turned on, it works well for the person. Between working with Katherine's team and with the retailers, we've been improving the number of times that the end user—the consumer at home—is actually able to make the self-install kit work the first time. So the answer to your question is: if someone has a self-install kit, they don't have to take time off work. They can receive it, they get it at the weekend, they can turn on their NBN service, and they can do it in their own time. If it doesn't work, though, they obviously don't have as good an experience. In part, it depends upon whether a truck, or a person, turns up to someone's home or not as to what the experience in fibre to the curb is. Similarly with HFC, we have done a lot of work—the engineering work that Katherine was talking about. A lot of that is actually to ensure that, when our partners go into a home, that service works well, and that it provides them the reliability and the speed that they expect and they deserve. And again, that experience has dramatically improved over recent months. Brad, would you like to comment further on that?

Mr Whitcomb: Yes, I'll just elaborate slightly on that. It might be slightly counterintuitive, but most customers would prefer a self-install versus having to take time off work for a tech to show up.

Senator URQUHART: Or not show up, as has happened on a lot of occasions.

Mr Whitcomb: That is a critical metric and, clearly, for end users, getting there when we said we were going to be there and getting it installed right the first time is critical. That's true across technologies. I think the biggest differential between the two is that we do have the self-install kit option available for FTTC. We don't currently offer that with HFC.

Senator URQUHART: How does the remediation work that is taking place on HFC and the prebuild with some of the HFC lead-ins simplify the activations process heading into the peak activations year?

Mr Whitcomb: It's really about getting a network from the build perspective that is very likely to have a clean activation. This notion of going from the so-called RFS—not to open that Pandora's box again, but into the ready-to-connect—is that we've done the engineering, the testing, making sure that the lead-in is robust and that it's going to be a smooth activation process. The more we can deal with that in bulk then the less likelihood that there's going to be a failure at the time of activation. So it pushes things out a bit, which is this concept of this remediation, but it then does streamline and smooth the activation process. If we look at the end users and their commentary around their activation experience, we have seen a significant improvement in the post-remediated HFC footprint versus what it was in a pre-remediated state. So I'm a fan, from a customer-experience perspective.

Mr Rue: Senator Urquhart, just to answer Senator O'Neill's question: I think we will see around about 800,000 HFC premises being released from February to June. And we haven't done too much this month, so it will be 800—or whatever we've done so far this month—less. So, maybe 700,000 to 750,000 from now.

Senator O'NEILL: Do you expect that to ramp up, or will it be a steady release?

Mr Rue: I expect that the months of April, May and June will be higher. So they will be, you know, not quite 200,000 a month, but just under that number for those months.
Senator O'NEILL: Thank you very much. That's helpful.

Senator URQUHART: Do you expect the peak activations year to present any risk for consumer experience, in terms of the high volumes? Or is it the judgement of NBN Co that the industry now has sufficiently mature processes to handle that volume uplift?

Mr Rue: I'll answer that several ways. There are clear challenges in any build program or activation program in ensuring that the industry resources are there. And not only that but that they are sufficiently trained, not just in technical training but also in the way—certainly, that's going into homes—apart from getting police clearances and all that stuff, that they have the right attitude or the right way that they deal with consumers. And as a result of that, teams—and Katherine and her team, I can tell you—spend an exorbitant amount of time with our delivery partners in ensuring resourcing. That doesn't just mean, 'Do you have total numbers?'

It means, 'In this area, in this month, what do you have?'

Similarly, with the connections process, we have people who spent their time matching Brad's demand—or his supply, actually, into the connections; it's demand from the RSPs, which provides supply into the operations team—and, again, seeing where that will be on an area-by-area basis. Therefore, our teams spend a lot of time with delivery partners, and I can tell you that, on a connections area, the teams will talk to the service delivery partners and say, 'I want a list of names. I want to know who you have got, where you have got, if you have enough,' ensuring, therefore, that we manage that process. We don't always get it perfectly right between us and the delivery partners, but each time we learn from that.

So are the processes right? I sit here today and say that the processes are not 100 per cent perfect but they are pretty good, and our teams know what is in front of them and the service delivery partners know what's in front of them. And I can tell you that Peter Ryan—who can't be here today, but you've seen Peter before—and Brad's team have regular discussions to ensure that the sales and the ability to connect are there in place. Equally, then, they put pressure on Katherine to tell her, 'I want you to make sure that, when you say you're going to release footprint, you do,' because otherwise it puts the process out.

So is there a challenge with the two million connections next year? Of course there is. But this management team and our employees have spent a lot of time on business process excellence—which people would know as Six Sigma—spending a lot of time with our delivery partners on relationship-building with, 'Where are your names? Are you going to achieve these?' I'm confident, therefore, that we can hit the targets, but that does not mean it's easy.

Senator URQUHART: You did touch a little bit on this in Senator O'Neill's questions, but I understand engineers have continued to express concerns about the condition of the HFC network being used by NBN Co. Can you confirm whether NBN Co is again seeking to reduce the HFC footprint and, if you are, what technology is planned to be deployed in its place?

Mr Rue: Certainly, in relation to your first question, we have an engineering team who monitor the network performance daily—hourly.

Senator URQUHART: The HFC network performance?

Mr Rue: All networks, but you asked me about HFC. We have a specific HFC engineering team. They look at data. They look at nodes. They look at the health of nodes.
And that means they look at 10 or 11 different engineering metrics to see whether a node is performing according to how it should. They have tools that look to see if the reliability of services or the speeds that you expect into homes are actually delivering what they should. And, I'll tell you, those engineering teams will tell you that the network is performing well. The challenge with the network is that, when you're connecting a lot of people, there are what engineers call 'lots of hands in the network'. But our team have spent a lot of time improving the quality of the services that we provide. I personally am confident that the network is going to provide the services it needs and is going to be an excellent service going forward. It's a service that you continue to put capacity into as and when needed, and with the launch of DOCSIS 3.1 we'll be able to launch high speeds onto that network. From an engineering point of view, we have a team focused on it and we have tools for it, and I think it's performing well, actually.

On your second question, the corporate plan talked about 2.5 million homes on HFC. That number has not changed. There may be a street here, there and everywhere that's moved for whatever reason, but there's no change in those numbers at all.

**Senator URQUHART:** So you can rule out the prospect that NBN Co has already wound back parts of the HFC rollout but has not made this public?

**Mr Rue:** Since the last corporate plan, there has been no change. There may be a street here and there, without saying there's not one home changed, but there has been no change that I'm aware of. Katherine, is that—

**Ms Dyer:** Yes, that's correct, and 94 per cent of our network now has got construction issued. So that's a definite work commitment, if you like.

**Senator URQUHART:** Should we expect the size of the HFC footprint to remain unchanged at 2.5 million?

**Mr Rue:** I think you should, yes.

**Senator URQUHART:** Why is NBN Co undertaking regular node splits on the HFC network? Can you talk about the capacity constraints that the network's running into?

**Mr Rue:** Certainly. I'll ask Katherine to talk through the technical detail, but let me give you the high level. The way an HFC network is constructed is that you provide a certain amount of capacity. That's effectively the capacity you get out of a node. When users on the network demand more usage, or you put more people on to that network, you've got to do further engineering work, which is called node split, which is essentially putting more capacity into the network. The good thing about an HFC network is that you only need to put capacity in as and when it's needed, although that is obviously capital expenditure on an ongoing basis. The number of node splits that you're seeing is because customers are coming on to the network and because the data demand continues to grow. You would remember that, as part of what we described to Senator O'Neill earlier as the optimisation program, we brought forward a lot of the node splits. We started to include some of that in costs per premise, because they were spent before the networks were made ready for sale. So in areas where we are still building in we have also been doing node splits.

**Ms Dyer:** There are two types of node splits that we perform on the HFC network. There's a soft or logical node split that we do at the software level, with no physical work but more in the IT routing of the node. The second one is obviously a physical node split. It's very much
about introducing additional capacity to uplift the capacity in a ratio compared to the amount of premises passed. Again, with capacity management across all of our networks, it's something that we manage and monitor right across our network. It's just a factor of the HFC technology that we're deploying.

Senator URQUHART: Do those capacity constraints not occur on the fibre to the premises architecture?

Ms Dyer: Theoretically they could, eventually. If 100 per cent of people take up the product and everyone is on the network at the same time, theoretically you could get congestion on the network.

Senator URQUHART: But not at the same level that the HFC does, obviously?

Mr Rue: There are a couple of things. It is a different architecture, so there's a different way of putting capacity in the network. There's still capacity you put in the network, but it's in the transit network primarily. But with HFC you spend the capital expenditure when you need to. You put additional capacity in on a two- or three-year basis, depending on data growth. I should stress that we put the capacity in before there is congestion.

Senator URQUHART: How are the HFC capacity constraints detected? How do you know they're there?

Mr Rue: On a node by node basis we look at how much throughput is going through that node and how much capacity that node has. When it gets to a certain threshold, which is well before people will see congestion, we trigger the time to spend the capital expenditure and do the node split so that there is no impact upon the consumer and the consumer doesn't have a poor experience from doing that. This is something that's done in HFC technologies all around the world. You'll find it done in US, Canada and so on.

Senator URQUHART: Are there instances where a node split has not been performed in sufficient time and there's been congestion that's impacted on customers? What happens if you don't then perform that node split?

Mr Rue: If you don't perform a node split you will have a poor experience. You'll clearly have a congested experience. I'm not aware of instances where that has occurred. We have a team that works—

Ms Dyer: It's myself and Peter's team.

Mr Rue: Between Katherine and Peter there is a team that makes sure that they look at the network, they ensure that where there is capacity coming they are well in advance of that, and they do the node splits. I can tell you that Mr Whitcomb absolutely looks at this, too, because he wants to ensure his customers have no degraded performance.

Senator URQUHART: You can't point me to an example where a node split hasn't been performed in sufficient time?

Mr Rue: I'm not aware of one.

Senator URQUHART: When does NBN Co expect Foxtel to vacate the network?

Mr Rue: That's a question for Telstra and Foxtel. Foxtel on the network is something that's a contractual arrangement with Telstra. You'd have to ask them.

Senator URQUHART: You don't have any insight into that?
Mr Rue: Other than what I read. That is a matter you'll have to ask them.

Senator URQUHART: Has NBN Co made any payments to Foxtel or modified any aspects of the existing Telstra agreement as a means of indirect payment to facilitate Foxtel's exit from the HFC network?

Mr Rue: No. We have had discussions with Telstra around spectrum usage on the network. It was a bit hotchpotch. You'd have Bigpond, NBN, Foxtel, Bigpond, NBN and so on. For spectral efficiency we did some movement around the spectrum, but that was not part of a DA; that was just NBN and Telstra working together to get spectral efficiencies.

Senator O'NEILL: Can you provide a bit of detail on what you determined there?

Mr Rue: In what sense?

Senator O'NEILL: Who got what?

Mr Rue: It was a case of rebalancing. There was no commercial arrangement. It was a case of making sure that the spectrum was used more efficiently so we didn't have to do as many node splits, essentially.

Senator URQUHART: Once Foxtel has vacated the network, will this reduce the need for node splits?

Mr Rue: I'm not aware of Foxtel vacating the network. But in the event they did and there was more spectrum available to NBN, that would give us more capacity, yes.

Senator URQUHART: I've got some questions on next generation satellites. What's the capacity of the current NBN satellites?

Mr Rue: Now you're testing me. Someone listening will know the answer to this. I can't tell you off the top of my head. Let us get you the answer. There are 155 fixed wireless towers, but the important thing is the cells. There's more than one cell on a tower, for example, and it's the cells that get congested. In Tasmania, of those 770 cells, there are 33 congested cells. In other words, they are operating below six megabits per second threshold during busy hours. We have a program to ensure that that congestion is resolved by September of this year.

Senator MARTIN: Thank you.

Mr Rue: We will get you an answer on the current satellites. I have a number in my head, but I don't want to say it because it is probably wrong. Let us get you the answer.

Senator URQUHART: My next question flows through that. Is this capacity available through every spot beam?

Mr Rue: The capacity will be shared between the spot beams.

Mr Whitcomb: I think the answer to that is yes, but the size of the beams is pre-set, and they vary, so in some areas that capacity is spread over a wide area and in some it's a narrow area.

Senator URQUHART: So some spot beams might have more capacity than others—is that what I understand you're saying?

Mr Whitcomb: Each beam would have the same capacity, but some beams would be larger than others, so if one is spread over a larger area, the area couldn't handle as many.

Senator URQUHART: So they pick up more people or more premises.
Mr Rue: I'm glad I didn't answer your question, because I was going to say 150 gigabits per second capacity. The answer is 180 gigabits per second capacity. That is both of them together, not each.

Senator URQUHART: Two satellites?

Mr Rue: Yes.

Senator URQUHART: Does that mean they get 90 gigabits

Mr Rue: Yes, I believe so.

Senator URQUHART: I think you said there were 100 spot beams.

Mr Rue: 101.

Senator URQUHART: What is the average number of active users per spot beam?

Mr Rue: I saw that chart recently. Somebody who works for Brad is the expert on this.

Senator URQUHART: He's excited about it, I can see!

Mr Whitcomb: On each beam? We'd be a long time reading them all out. We can give you some sort of indication.

Senator URQUHART: I said the average number of active users.

Mr Rue: On each beam, did you say?

Senator URQUHART: Per spot beam.

Mr Rue: The 101?

Senator URQUHART: Yes.

Mr Rue: Let's see is what we can get you.

Senator URQUHART: Since the changes to monthly data allowance have come into effect, what change in consumption behaviour have you observed over the Sky Muster network? Has that been nearly 12 months?

Mr Rue: It has. I think it has been more than that, actually.

Mr Whitcomb: I don't know the answer off the top of my head.

Mr Rue: I'm hoping that the satellite expert is in the room listening to this. If they are, bingo, we'll answer the question.

Senator URQUHART: If they are not?

Mr Rue: We will have to take it on notice.

Senator URQUHART: You will want to know where they are.

Mr Rue: They are probably asleep!

Senator URQUHART: What impact, if any, has that had on the capacity being utilised on the satellite?

Mr Rue: We'll get the answer to your question. It has certainly increased, and that was the whole intention of that, obviously. Let us get the appropriate answer to that.

Senator URQUHART: To confirm, I think you said earlier that the NBN satellite covers some 440,000 odd homes?

Mr Rue: I think it's 410,000 in the corporate plan.
Senator URQUHART: Yes, but it can support up to 240,000 users—is that correct?

Mr Rue: It's 240,000 or 250,000.

Senator URQUHART: So it's about 410,000.

Mr Rue: That's the coverage area, but with the capacity that we have, with the data that's been allowed and with the usage, therefore, we think it will serve between 240,000 to 250,000 people. We have 93,000 people on the satellite. It would be good to see more.

Senator URQUHART: So less than one in four households where Sky Muster is currently available take up the service.

Mr Rue: Yes.

Senator URQUHART: If that figure were to increase, say to one in two, what impact would that have on the capacity?

Mr Rue: Again, we have done the capacity planning including the Sky Muster Plus based upon a take-up rate of approaching those limits. If it got beyond that—

Senator URQUHART: Beyond the one in two?

Mr Rue: As I said, with the 240,000 or 250,000 it serves, it would have an adverse impact on what everybody could use. Yes, that's answered the wrong question. Sorry, the question has been answered but the wrong question has been answered. We are still trying to get the capacity per beam for the 101 beams.

Senator URQUHART: So if it were to increase to one in two—you said it would have an impact. What are we talking about?

Mr Rue: Unfortunately, you're asking questions that Brad and I would have been familiar with a while back. We don't have the document in front of us. We certainly did our capacity planning around increasing data limits and indeed around the Sky Muster Plus based upon a number of end users. I will have to check whether that was that 250,000 or a smaller number. I'm getting that for you. I'm hoping I can get it tonight. If not, we will have to answer it on notice.

Senator URQUHART: When the Sky Muster data allowance increases were announced, what did they assume the long-term take-up rate on the satellites would be?

Mr Rue: That's the same question. Let us seek advice on that.

Senator URQUHART: Do you have a sense of how many premises within that satellite footprint are still using ADSL?

Mr Rue: Again, we looked at that. We don't have that clear total answer, but we do know that there are people within that footprint who use ADSL. We also know that there are people who use mobile services. We would like more people on the Sky Muster service. You may say that is for our revenue, but that's actually because we think it provides a great service to Australians. Certainly, with the additional Sky Muster Plus products, it will provide things like educational services that just aren’t available over other forms of service. I myself have seen children being educated in distance education. That's the sort of thing we want to see happening. We don't have the precise numbers, but we do know—

Senator URQUHART: But do you have a sense of how many premises might be within that footprint?
Mr Rue: We have done an estimate, but it is an estimate.

Senator URQUHART: Do you know what that is?

Mr Rue: Again, not off the top of my head.

Senator URQUHART: How does the capacity of next generation satellites compare to the current Sky Muster satellites?

Mr Rue: The next generation satellites coming out would have a much greater capacity than the current satellites. They're probably more expensive as well. What they enable you to do is—I don't know what the technical engineering term is—shift the payload or shift the amount of data that can be used. It's fixed at the moment on a spot beam. You're able to effectively switch the data, switch the capacity, to where it's needed in the new generation.

Senator URQUHART: Yes.

Mr Rue: That means that there is more capacity. Exactly what that is, I think, is still something that the manufacturers are working through. Again, I have a number in my head, but let me see if the room has what the new generation satellites can provide.

Senator URQUHART: Okay. What capacity improvements would we typically see in the satellite industry over a ten-year period? Do the spectral efficiency gains track what we might see in the mobile industry?

Mr Rue: Brad, do you—

Mr Whitcomb: They're probably in order of magnitude, so probably 10X.

Senator URQUHART: Hypothetically, if the capacity of an NBN satellite was to double, would this allow NBN Co to double the data allowances?

Mr Rue: It depends on how many people take the service.

Senator URQUHART: Of course.

Mr Rue: But if the same number of people take the service and, again, if that load is spread evenly, yes you would.

Senator URQUHART: Again, hypothetically, if the capacity of an NBN satellite was to increase tenfold, would this allow NBN Co to double the number of users it supports and nearly triple the data allowance?

Mr Whitcomb: I think, mathematically, that would be right.

Senator URQUHART: Is there a linear relationship between the capacity of the satellite and scope to increase data allowances under the fair usage policy?

Mr Whitcomb: I would have thought yes.

Senator URQUHART: There is?

Mr Whitcomb: Yes.

Mr Rue: We're trying to get answers to some of these questions. The data consumption posts the new data limits increased from 30 gigabits on average to 42 gigabits. It's not quite a 50 per cent lift, but it's close to a 50 per cent lift. By the way, that's just download.
Senator URQUHART: My final question in this area is: how do the economics of improving satellite capacity compare to that of fixed wireless? Is it actually more economical in some ways, because you're upgrading a single asset rather than 1,600-odd different sites?

Mr Rue: That's a good question. It depends on what you're trying to achieve. The satellite service covering 400,000 homes is about $8,000 a home.

Senator URQUHART: Yes.

Mr Rue: If you were to put an additional new generation satellite up—which I think was your question—you'd be talking about, it depends on how you did it, numbers somewhere between $500 million to $1 billion. You could, of course, lease that off providers as well, so you don't necessarily need to spend the capacity. In the satellite areas, you are—not in every case, but in the vast majority of cases—talking about homes, which are a far distance away. It would cost Katherine a fortune to put a fixed wireless tower up, because you'd have long hauls, for example, of fibre, and you'd build an expensive tower with hardly any homes, because it's a radius of about 11 kilometres. I think the answer to your question is, if you were to put more capacity in the satellite areas, the absolute best way to do that in the vast majority of cases is through either another satellite or to lease capacity from another satellite.

Senator URQUHART: Thank you.

Senator O'NEILL: I have some questions about small retail providers, which is a bit of an indicator for you. What sort of feedback is the NBN Co getting from the small retailer providers about the sustainability of their business models?

Mr Whitcomb: We have a number of those small retailers. Most of them we would consider to have an indirect relationship. They're typically working with one of the larger RSPs. Effectively, they're buying service from that RSP and then onselling it to the end user. Some of those smaller ones also go direct with the NBN. We do feel that that's a vibrant market. Generally, it's been relatively stable. We've had a couple that have come in and out but we haven't had any specific feedback about the viability of their business other than just in the course of normal price negotiation et cetera.

Senator O'NEILL: It sounds like you're the person doing the face-to-face interaction with these small providers. Are you seeing signs that some smaller providers are beginning to restructure their businesses away from NBN?

Mr Whitcomb: I wouldn't suggest that that's a trend. Again, when you've got hundreds of small retailers, each one will be making their own moves in different directions, but I wouldn't say that is a trend, no.

Senator O'NEILL: Is it fair to say that strong retail competition is producing settings where it's hard for the providers to make a profit during the land-grab phase and at some point this competitive tension is going to moderate as the migration comes to an end?

Mr Whitcomb: I think there is robust competition in the market, which I think is healthy for the industry. One of the founding principles of the NBN was to create this level playing field and have that level of retail competition, whether that competition be on service, value, price or otherwise, so we welcome that. It's part of the reason that we look at having such a high penetration rate. We think about getting to 75 and higher penetration of the product. That's dependent upon having a robust set of retailers out there that will go after different segments and make different value propositions.
Senator O'NEILL: Do you have a view about when the land-grab phase is finished, when that dip will occur?

Mr Whitcomb: I think that's geographical, the idea of having a peak year. We've already moved through a number of geographies. You could argue in those areas, if there were this so-called land-grab—or trying to hold on to your own customer base, as the case may be—then for half of the network we're already beyond that and we're into more of a steady state. Then there's the constant flow coming out of Katherine's team into a new area, where you'd have that land-grab phenomenon. We're seeing the industry mature at the same time as we're continuing to build.

Senator O'NEILL: I take your point about the geographical reality of this moment in time occurring in multiple contexts.

Mr Whitcomb: Yes.

Senator O'NEILL: But, in those contexts where it has occurred, at what point does the churn rate in the market soften enough for retailers to adapt their pricing strategies? Have you seen that?

Mr Whitcomb: Churn rate between the RSPs?

Senator O'NEILL: Yes.

Mr Whitcomb: I'm sorry; what was your question?

Senator O'NEILL: At what point does the churn rate in the market soften enough for retailers to adapt their pricing strategies? You have snapshots of moments in time, haven't you?

Mr Whitcomb: Yes. But I'm still trying to understand the question that you're asking us.

Senator O'NEILL: First of all, do you observe an adaptation of pricing strategies as the market matures in particular contexts, as you described?

Mr Whitcomb: I think for that, particularly when it comes to the larger retailers, which are oftentimes setting the market price, they do have more of a national pricing strategy. With that, we haven't observed: 'Okay, we've finished this part of the nation, so we're changing our pricing to more of a retention, rather than an acquisition, versus some other part of the country.' They tend to have more of a national pricing policy.

Mr Rue: If I could comment, Senator. We're obviously going to see a lot of people come onto NBN in the next few years. The retailers are still selling heavily, and the reason they do that is for the consumer—whether it be to own the home or to own the relationship—as well as, obviously, to generate an economic return from NBN itself. Some of the smaller retailers look at things like diversifying into energy, for example. Some of the larger retailers have mobile customers. I think what we'll see is just the retailers continuing to deepen their relationship, which in some cases they built through NBN, and use that to expand their business, both in NBN and outside where they have a relationship with the consumer and with the home that that consumer lives in. So I think you will continue to see a vibrant retail market. What will happen in three to four years you could debate, but I think it's going to be vibrant still. I said in my opening statement that it's why we did the research. One of the concepts of policy in setting up NBN was to create this vibrant retail sector, and I think we're seeing that.
Senator O'NEILL: I will ask the question I clumsily constructed before, but perhaps a little more clearly: when migration begins to ease off and there's a reduction in the churn rate and competitive tension, do you expect pricing strategies to change by comparison to what they are during a peak activations period?

Mr Whitcomb: The churn rate that I think you're talking about is the churn rate from legacy technology onto the NBN. When I'm thinking about churn, I'm thinking about a retailer's perspective on churn, and I think right now most of the retailers have a strategy to retain their base while they're flipping over to a new technology. They'll still have that strategy to retain their base by and large, particularly the larger ones. Many of the smaller challenger brands today and in the future will be in more of an attacking mode trying to capture share. The NBN enables that, but I think the larger retailers are not looking at this as a churn event as much as a retention event at the time that the underlying network is changing out.

Senator O'NEILL: So really we're talking about the capacity to play a long game?

Mr Whitcomb: Yes.

Senator O'NEILL: That favours the larger retailers rather than the smaller players. What if the smaller players can't play the long game? What if they can't keep accruing potential losses between the now and the then?

Mr Whitcomb: If we look at other markets, there tends to be a very long tail of challenger retailers, and we think that that's a healthy outcome. There are many ways to compete. Larger players have larger scale, of course, and they can spread their costs over the base. The smaller ones tend to be more nimble. They can address more niche markets. So I don't necessarily see that, as we complete the migration from legacy technology to the NBN, that would hurt the smaller players. If anything, I think it opens up a larger market share for smaller players to attack.

Mr Rue: I agree. As I said earlier, I think you should think of it as owning the customer and the opportunity to sell other services, and I think that will continue in the future.

Senator O'NEILL: Can I come back to pricing. Given what you've just explained there, do you expect pricing strategies are going to change towards the end of the migration?

Mr Rue: I think we will continue to work with retailers. Mr Whitcomb has product form with retailers. I'm sure that—whether with bundles, with introduction of products at a lower end or with introducing new higher speed tiers—we will continue to refine the way we do pricing. What we need to do is—

Senator O'NEILL: When you say 'refine the way we do pricing', do you expect prices will change as the migration changes into a new phase?

Mr Rue: I think that we will continue to work on pricing. I'm not sure I'd use the word 'change', but I think we will continue to work on mechanisms whereby we can ensure that we continue to achieve the commercial objectives that the company has laid out for 10 years, in terms of average revenue per user. I always say a lot of that will now come from business and from people buying higher speed tiers. I'm sure we'll refine the way we do pricing. For example, with the bundles that we introduced this year, I'm sure we'll look at various ways that we can continue to modify or improve product sets or come up with new product sets. At the lower end of the market, we would like to have increased penetration of the market. We'd
like to make sure that there is access for all Australians. I'm sure, again, we'll look at products and pricing in that area. I think it will continue to be refined in a way that meets our commercial objectives, because we need a strong business model for NBN to continue to invest in the network—that's an important point—but also great customer experience and for our retailers to be successful. Balancing those three things will continue to see refinement.

**Senator O'Neill:** I'm assuming that, when you were giving me that response then, you were talking about NBN Co pricing challenges. Can I go to the retail providers.

**Mr Rue:** I was. Were you talking retail? I apologise, I thought you meant our pricing.

**Senator O'Neill:** Do you expect change in the pricing strategies as the migration shifts to a different stage?

**Mr Whitcomb:** I don't think anything necessarily will occur at the time when the large RSPs have moved their base from a legacy network onto the NBN which would cause that sort of structural pricing shift. We already see very different strategies playing out in the market, from retailers that are focusing on a low price point, retailers that are focusing on bundling, as Mr Rue pointed out, between fixed and mobile. Some are trying to own the home. Some have large content strategies. I think those are fairly sophisticated strategies that will continue to play out, despite the fact that there'll be more customers coming off a legacy network and onto an NBN powered plan.

**Senator O'Neill:** You're putting all your hopes in differentiation of product, by the sound of things to me.

**Mr Whitcomb:** Product, service, price, offer—

**Mr Rue:** Bundles, electricity, mobile—it will depend upon an individual retailer's efforts to monetise the relationship they have with the consumer.

**Senator O'Neill:** Do you consider the current pricing of retail providers sustainable?

**Mr Rue:** That's a matter for the retailer. Each of them have their own pricing strategies and their own cost base. Each of them are selling NBN services knowing the current pricing structure—not only that; because we have a four-year long-term plan, we've been very vocal not just in the plans but with our retailers around our expectation of people moving up higher speed tiers. Obviously there's the business side. Retailers are aware of our pricing structure. They're aware of the long-term plans. They also all have their own cost base. They also all have other ways that they can monetise that relationship with the consumer, not just the fixed-line relationship or the NBN powered relationship. Those retailers rent in the market knowing all that, and I'm sure that they all have their own plans as to how they maintain a profitable business for their shareholders.

**Senator O'Neill:** Do you consider the margins that the industry's currently making to be sustainable?

**Mr Rue:** Again, I respond to that by saying what I just said. I'm just going to repeat my answer to your question. That is a matter for them. But again, our long-term plan has been clearly laid out for many years and people are entering the market knowing that.

**Senator O'Neill:** Do you expect retail prices to increase in future even if wholesale prices remain constant?
Mr Rue: I think that goes to your earlier question on the ongoing competitiveness in the marketplace. The fact that NBN has levelled the playing field, I think, is a really good thing. The questions you're asking will play out in four or five years time. To some extent, Brad and I are speculating. But it certainly is a competitive market that has been driven. I think that's great for consumers and I think it's great for our business to have cash flows that we can invest into the business to make NBN better and better going forward.

Senator O'NEILL: I hear through all those words that there would be some increase you would expect.

Mr Rue: I think it is a very competitive market and it will play out. Sorry to repeat myself again, but people will find ways to monetise that relationship that they've built with the customer. What will actually happen, we'll see play out, but it's in the future, post build and post migration, that we'll see the answer to your question.

Senator O'NEILL: That's why you think it's about five years before we will see any of the evidence of what you've just been talking to me about.

Mr Rue: Katherine will be finishing the build in June 2020, therefore the 18-month disconnects will continue through until December 2021. You are talking three, four years ahead, I think.

Senator O'NEILL: You can't give me an indication of any price adjustments on the horizon? Surely that must be part of the planning you undertake.

Mr Rue: We look at our business model, the fact that we expect people to migrate to higher speed tiers, and ongoing ways in which we can build or create new products, and we lay all that out with our customers. The actual margins that the retailers make and the ways that they monetise that relationship with the customers they either have today or they're building is a matter for them. Each of them have their own ways to look at their costs, their products and their bundles. They all want to make profits. I do know that Australia now has a very vibrant retail sector. We did that research deliberately, because we wanted to ensure we were delivering upon the policy option. You can see there's affordable broadband in Australia and a competitive market, and I think that's good. What will happen in years to come will play out. We are speculating to some extent, but I do know that, the more competitive a market is, the better it is for consumers.

Senator O'NEILL: That competition is dependent upon a large number of players staying in it. If the small players can't last the distance then that reduces the competitive nature of the market, doesn't it.

Mr Rue: Once again, the small players in the market will build their niches and their consumer relationships. I'm sure they will build their additional revenue streams through other ways of monetising that. We'll see what plays out. As Brad said, when you look at international markets, it's not unusual to see three or four players with more than 90 per cent market share and then a long tail.

Senator O'NEILL: And the niche providers.

Mr Rue: Niche providers, yes.
Senator O'NEILL: You mentioned that speed tiers might be a factor. Do you think there would be adjustments to all speed tiers in that period of time, or predominantly to the 50-megabits-per-second tier?

Mr Rue: We will continue to see consumer behaviour and demand, looking at the best way to achieve those three things I mentioned: great customer experience, our strong business model—which includes having as many people as possible on NBN, by the way—and we maintain our competitiveness while retailers also are successful.

Senator O'NEILL: Does NBN Co have any challenges with customers on short-term rental arrangements?

Mr Rue: We're working on something to address that. Brad, you might want to talk about that. You're talking about people with six months in a unit block, for example.

Senator O'NEILL: Yes, or it could be an even shorter period of time.

Mr Whitcomb: You are talking about end-user customers in that case.

Senator O'NEILL: Customers who have short-term rental arrangements.

Mr Whitcomb: Again, we sell to the retailer and then the retailer takes our product and puts it down to the end user, so we would look to that to be something the RSPs would be specifically trying to address. However, if we look at multidwelling units, which tend to have people coming in and out more frequently, we are looking, from a product perspective, at how we could make it easier when an end user comes in to have an always-on NBN service or something like that, so it's easier to come in and out. We don't have any term commitment with the retailer. It's not like we've locked end users into 24-month contracts or something like that. The retailers can cancel their service with the NBN with very little notice. So, that's probably more of a retail market to address, but if there is something we can do on the product side to make it easier for the retailer, that's what we are looking at, but not on the pricing so much.

Senator O'NEILL: Do you know if there's a lower take-up rate in that segment of the market? Do you have any idea about whether wireless is more commonly adopted there?

Mr Whitcomb: We do have a lower take-up rate thus far in multidwelling units, and the hypothesis, as part of that, is that it is due to the transient nature of the people who come in and come out, and to the extent that they need some connectivity, it's reasonable to assume more of those people are using mobile.

Senator O'NEILL: What strategies do fixed-line telcos typically employ for these customer segments?

Mr Whitcomb: Again, from the retail perspective it would be more on the pricing side—so, having no contracts. We have RSPs that offer that in the Australian market—but that would typically be around the pricing, around prepaid services, making the customer prime equipment easy to acquire for somebody who doesn't want to have that sort of long-term commitment. But most of that would be done on the retail side, not on the wholesale side of the business.

Senator O'NEILL: If we can switch for a moment to the wholesale side, what can be done at the wholesale level to make the NBN more attractive to short-term renters?
Mr Whitcomb: I think it's the ability to connect easier upon entering into their dwelling unit. That's the primary—

Senator O'NEILL: To be able to turn it on, just like the electricity?

Mr Whitcomb: Exactly.

Senator O'NEILL: Are you working on any product, or—

Mr Whitcomb: We are.

Mr Rue: We are. That's why I was nodding and smiling when he answered the question. It's something—

Senator O'NEILL: You nod and smile at me all the time, Mr Rue! But you're always telling me a good story about the NBN Co—I don't always believe that nodding and smiling, I have to tell you!

Mr Rue: I'm not sure if I should respond to that! I'm going to choose not to! I smile at everybody, Senator. You know that. The issue that you're talking about is, yes, there is a lower take-up, as Mr Whitcomb said. It is something that we would like to see how we could build our penetration and assist those customers, and we are looking at exactly something we could do with that. We're not quite at the stage that it is formulated enough into a clear plan, though. Brad, you might want to just give a few hints, but we're still working on it, to be honest with you.

Mr Whitcomb: I think there are just more structural differences between a multidwelling unit and a single-dwelling unit. Trying to make contact with the end user, oftentimes—even things like the disconnect notices et cetera can be caught in the lobby, where the person who's in charge of the mail just takes it and throws it all in the bin and we never get to the end user. So, part of it is being able to communicate effectively. But we do think there's something we can do on the product side. And then there is the nature of their not wanting to make the longer-term commitment. As I said, we don't impose that commitment on the retailer. So, we can tick that box and say that we're not locking that end user into a long-term commitment, and there are retailers that don't do that, as well. It's more of the, as you said, electricity: how do we assure it's on when they come in? Is it as simple as: your first three days are free so that you can get online and order a service through your retailer and we don't meter the first couple of days, for example.

Senator O'NEILL: Structure a transition period? Anticipate it?

Mr Rue: Something like that. It's something we will be discussing that with our retail partners. It's something that we do want to address.

CHAIR: I just wanted to gauge—we are due to break about now.

Senator O'NEILL: I have one more question in this section, and then I have three more lines of questioning.

CHAIR: If the witnesses are okay, we will push on and get through them ASAP.

Senator O'NEILL: I'm sure the answers will be very succinct and very short.

Mr Rue: You want short answers?

Senator O'NEILL: Accurate, careful answers, but yes.

Mr Rue: Do you want the answers from your satellite question?
Senator URQUHART: That would be lovely.

Mr Rue: I thought you would. We don't have any reliable ADSL numbers, I'm sorry I can't help you with that.

Senator URQUHART: No reliable numbers.

Mr Rue: I think you asked about the long-term satellite take-up? We expect just under 30 per cent take-up of that 400,000 in our corporate plan. Those are the sorts of numbers we've been using when we've been putting together our Sky Muster Plus and other types of products. Again, if the take-up rate is higher, I think that's a good problem to have. We will just have to look and see how we would continue to serve those customers. But if that's the case, it's a good problem to have and we'll address it when it comes. Basically, we've seen this sort of trend for the last two years. If you recall, we slightly reduced the take-up rate in our last corporate plan because of that trend.

The other question you asked me was about next gen satellites?

Senator URQUHART: Yes.

Mr Rue: As I said—and I've talked to some of the satellite providers—there is still a lot of talk in the industry, but I think you can think about it up to something like one terabyte. It won't necessarily get to that, but that's the sort of level that some of the satellite providers are talking about.

I'm sure you had other questions. We'll take that on notice and we'll—

Senator URQUHART: Yes. If we have anything following on from that I'll put them on notice.

Mr Rue: No problem.

Senator URQUHART: Thank you.

Senator O'NEILL: Um—

Mr Rue: Do I say yes? No?

CHAIR: Yes, perfect!

Senator O'NEILL: Well, if you're going to say yes, I'll ask if we can all have fibre to the premises!

CHAIR: No!

Senator O'NEILL: What wholesale constructs could allow a consumer to transfer more seamlessly an NBN service from one place to another? Is that something that you're engaged with, or is it something that you think needs to be left to the retail market? You know—pick it up, pack it and take it with you.

Mr Whitcomb: Yes, I'd have to take that on notice—

Mr Rue: Yes. I think, again, you touch on a point that's an issue we do a little bit of. Each week we have 'moves/adds/changes', as we call them. You're talking about moving a service from one to the other. It is something that, at the moment, is a small part of our business. I think that—for where your question is going—we have to be brilliant at this in years to come, because in years to come our business, obviously, will be operating a great network. But we'll also make sure that the transition from home A to home B, as driven through the customer and the retailer, is done really, really well. I don't know if there's any particular work on that
today, but it's certainly something that we need to address in years to come—you're absolutely right.

Mr Whitcomb: In theory, everything's supposed to remain behind, so it would be more of a retail relationship of signing up and then your location. But we do have issues where people take the customer premises equipment out as they leave, for example.

Mr Rue: And then there's IT work that we have to do in the background. We need to make sure that works efficiently.

Senator O'NEILL: I want to ask questions about modems.

Mr Rue: Yes.

Senator O'NEILL: I know that the company has undertaken some work in testing the quality of modems that are being deployed on your network.

Mr Rue: We have.

Senator O'NEILL: Can you outline what you've been doing for me?

Mr Whitcomb: We have our network-testing facility in Melbourne, and we've observed certain parts of the network—and this could be either on the HFC network or FTTN, to take a couple of examples—where we may see more dropouts or more modem resyncs than we would've expected to see. We've identified certain modems and taken them into the lab to see if, in fact, they're the cause of some of these higher rates of dropouts. Coming out of that, we did identify some modems which we felt were performing poorly.

Senator O'NEILL: Okay. How many modems have you tested?

Mr Whitcomb: Dozens of different types of modems were tested. They would represent the vast majority of modems that would be in the network, so they would cover a base of millions of modems. We just picked out the makes and models that were the most prevalent in the network.

Senator O'NEILL: What aspects of the performance were tested, and over what period?

Mr Whitcomb: That I don't have off the top of my head, but we could provide that to you.

Senator O'NEILL: Would you, please?

Mr Whitcomb: It was a rigorous test to see how the modems would perform and if, under a normal load, for instance, they resync when there is no reason for them to resync. We identified that.

These were all modems that were required by RSPs, and so we then presented these results back to the retailers. Many times, these results were welcomed and we found that it was simply something like firmware upgrades which would get the performance of those modems back up to an acceptable level. So they didn't require a physical change-out, they just required sending something over the air and changing the configuration on the modems.

Senator O'NEILL: Like an update on your phone, for example?

Mr Whitcomb: Exactly. So the retailers, in turn, would have to go back to their manufacturer, typically, get that patch created, and then put that firmware patch back out into the network. And we saw significant improvements in the reliability and stability of the modems when that was done.
Mr Rue: It's a good example of what I was talking to in my opening statement around the importance of in-home and, actually, the user experience in the home—I talked about wi-fi and modems. You're quite right with some other examples, Senator.

Senator O'NEILL: Were there particular modem models that performed poorly?

Mr Whitcomb: There were.

Senator O'NEILL: Were outliers on a pretty consistent basis? Who are the baddies and who are the goodies?

Mr Whitcomb: I think that would probably be commercial-in-confidence. I'm not sure we could share who the—

Senator O'NEILL: I'm sure there's exasperation in large numbers of households across Australia. The idea is to provide transparency so that people can see and understand.

Mr Whitcomb: We did provide that transparency back to the owners of those devices and let them know, 'We believe this modem is performing at an unacceptable level. We would suggest you go back and work with your maker to get this patch, if it can be patched,' and the retailers have generally followed through with that and upgraded the performance of those modems. We're not talking about all modems, but there was a small but important segment that needed to be addressed. Again, as Steven said, it raises, I think across the board, the importance of not only the modem; the in-home wiring, the wi-fi, the devices et cetera, all can feed into this performance. We're interested in it, because it ultimately can impact end users' customer experience if they've got a lot of resynchs.

Senator O'NEILL: It does. We've had many conversations about that over the years. But I'm still concerned that Australians don't have the information that you've fed back to your providers. And I expect that there would be people out there who are still having these significant problems because some retailers have not responded to information that's been given to them by NBN after this testing in good faith. Which ones are the problem ones?

Mr Rue: Again, Senator, I'm not sure that that's something that we can share, given the commercial relationships. But what I can tell you is that much of it has been resolved by the retailers, and the retailers and those particular manufacturers are aware of the issues, and, as Brad has said, much has been resolved. I'm not sure we can publish on our website that sort of information. There are commercial issues around doing that.

Senator O'NEILL: I constantly worry where commercial-in-confidence is prized over the experience of Australian families—

Mr Rue: No—

Senator O'NEILL: who are compromised daily by not actually knowing that they've got a modem that everybody else who's in the know knows is a dud. This is a government owned business. It's supposed to be for the benefit of the Australian people.

Mr Rue: Senator, that's actually why the three of us work there—because, yes, it's a business, but it's also providing what we think are really, really important, essential services to Australians.

Senator O'NEILL: But it's hard to respond to a problem you've got in your own house if you don't have adequate information to do so.
Mr Rue: There are many things you can't do, because of legal reasons or commercial reasons, that you may like to do. Look, let us see what we can provide you. I suspect we're going to come back and say that it's commercial-in-confidence, but let us see what we can provide you.

Senator O'NEILL: Well, it's not good enough for those people who are experiencing it.

Mr Rue: I understand that. But also, when you're running a business and you're running under laws of the land and you're running under contractual arrangements, you also have to comply with them, unfortunately.

Senator O'NEILL: Yes. And the higher purpose is the ethical action in the business-place, and we know a few banks that have had to figure that out. Some telcos had to as well.

Mr Rue: I'd be very happy to talk to you about ethics all night, because I share the same concerns you have. But there are also laws one has to comply with and commercial arrangements one has to comply with. Can I just say that we will take that on notice and see what we can provide you.

Senator O'NEILL: Good. My next question is: can you estimate what proportion of the NBN user base might be on these dodgy modems that you consider are not fit for purpose?

Mr Rue: It wasn't a large number, but I'll—

Mr Whitcomb: No. It was less than 10 per cent, maybe five per cent. I'm just—

Senator O'NEILL: That's a small number when you say it as a percentage, but in terms of real lives affected how many are we talking about?

Mr Rue: A lot of that has been addressed. I seriously do not have that information here. Can you let us take that one on notice?

Senator O'NEILL: Okay.

Mr Rue: Let me try and answer both questions notice together, if I could.

Senator O'NEILL: Is the experience of a faulty modem a slower throughput or more frequent dropouts or a combination of that and other things? What happens when you've got one of these dodgy modems?

Mr Whitcomb: Typically you would see it in the reliability. It would be unexpected or unexplained dropouts of the service.

Senator O'NEILL: That's the most common complaint that you've received?

Mr Whitcomb: Yes.

Mr Rue: Yes.

Senator O'NEILL: Certainly lots of small businesses tell me that that is a big concern for them.

Mr Whitcomb: Yes. Speed and reliability, from a use perspective, are the two most important things.

Senator O'NEILL: What is the area of great performance vulnerability—the wi-fi link performance to the end user device?

Mr Whitcomb: I beg your pardon?
Senator O'NEILL: Is the greatest area of performance vulnerability the wi-fi link performance to the end user device? Is that where it fails?

Mr Whitcomb: No. In this case we were testing the connectivity from the modem back up and through to the NBN network. That's independent of looking at the wi-fi performance of the—

Senator O'NEILL: Which is an additional complicating factor.

Mr Whitcomb: That's another potential vulnerability.

Mr Rue: There is absolutely no doubt in our minds that wi-fi is a really important issue to think about when you think of the whole chain all the way through, from retailer to NBN to the home. We have tried to do some education through some small advertising, certainly through the website, around the importance of wi-fi. As I said in my opening statement, we encourage our retailers increasingly to look at wi-fi in the home, and many of them are actually, which is good. But there is no doubt. I know from my own experience that you can have great access to one room and then—

Senator O'NEILL: Failure in another one.

Mr Rue: Your kids are in another room and they're not happy. That is due to the wi-fi performance or the way the home is set up. We as an industry—and this does sit with the retailers and their relationship with their customers; there's no doubt—absolutely need to lift awareness. I know the retailers are working on tools that they can have to look at wi-fi performance in the home. When they're in the home, hopefully they can go and look at the experience of people. I'm sorry it's a long answer, but I do think it's a really, really important point to make.

Senator O'NEILL: It's okay. We're in new territory. I haven't traversed this before, so it's quite helpful. When you had the modems in, did the lab also give some examination to the wi-fi experience that people got with those particular modems?

Mr Whitcomb: Not to my knowledge, but the wi-fi experience is so dependent upon the location in the home, so that's a whole other area, as Steven said, of exploration. But, again, that's owned by the end user and by the RSP.

Senator O'NEILL: What variation in performance is typically observed between a high-quality modem and a model that's been identified as poorly performing?

Mr Whitcomb: I'd have to get you that specifically, but it was around the frequency of dropouts. From memory—and this is just from memory—it would be like two or three times the number of dropouts from a poor-performing modem versus a good-performing modem. But we could get you that specifically.

Senator O'NEILL: Are those outlier models where there was this consistent problem—particularly these ones that haven't responded—the cheapest ones?

Mr Rue: Again, we don't have that here. But, again, that goes to your earlier question, so let us address that as part of us seeing what information we can provide you with on this. If we can take all these questions, we'll see if we can provide you with an answer to that.

Senator O'NEILL: Okay. Do you routinely and on a regular basis provide that feedback to retailers that you indicated to me earlier about what you judge as the performance capacity of their modems?
Mr Whitcomb: This started off as basically a trial—our own search for what could be driving end user experience above and beyond the bit of the network that we control. That's what led us to take those modems into the test facility in the first place and just see what it is. That then let us to go back to those retailers where we saw modems that were performing poorly and share our results. Ultimately it was up to them to take action against that.

Senator O'NEILL: How do you confirm that they have taken action?

Mr Whitcomb: They tell us they did.

Mr Rue: Again, that's a matter for the retailer with the consumer. We have taken it upon ourselves to provide this information, which I think has been the right thing to do. At the end of the day, if a consumer is getting a poor experience, they hopefully will raise that with the retailer or they will churn away to a different retailer.

Senator O'NEILL: But they might not be able to if they're in a contract, and there's no guarantee that the retailer will respond to the information that you give them. So there's an information loop that's got a few bits missing from it, isn't there?

Mr Rue: But, again, that is about the accountability of the retailer to the consumer. We are delivering a service which is arguably beyond our remit, but it's something we want to do. Again, that is something the retailer and the consumer must do.

Senator O'NEILL: Do the retailers ever report back and say: 'Thank you. We did this. This is what we changed.'

Mr Rue: Absolutely they do.

Senator O'NEILL: Is that the majority of them?

Mr Whitcomb: Yes, it is.

Mr Rue: I think retailers, as a general statement, also want a good customer experience. There are a number of two-way conversations that Brad and his team have with the retailers about improving customer experience. I think you should think of it from that point of view. As Brad said, the vast majority have responded to it well.

Senator O'NEILL: That they let you know when they've made that change is one thing, but do they ever dispute the technical feedback that you give them about the quality of their modems? There would be a cost implication if they've got something that's not working. If they've put out a cheap model that doesn't work, that's a big replacement.

Mr Rue: Again, you are assuming they are cheap models—

Senator O'NEILL: If it's an expensive model the replacement cost is worse for them, isn't it?

Mr Whitcomb: The history of this again is that it started off with us doing an experiment. Because we have our own lab and because it's not our equipment, we did have to go through a period of dialogue with the retailers, whose modems we tested, and share our information with them. I think the information was compelling. The retailers responded. Ultimately, it wasn't the retailers' fault that these modems weren't performing to spec. If you want to assign blame, it was the fault of the manufacturer who shipped the modem that wasn't performing to spec. They were ultimately accountable for getting it fixed. That is what then led to these firmware updates being provided by the manufacturer and distributed by the retailer, and we got a great outcome for the end user.
Senator O'NEILL: That still doesn't answer whether they dispute your technical assessments. Do they accept them or do they dispute them? Do they generally accept them or do they dispute them?

Mr Whitcomb: They generally accept them but not just at face value, so we needed to provide evidence and explain how we tested them and why et cetera. That's because, as you said, it's a big deal and they want to know what they're asking their vendor for before they go and ask for that.

Senator O'NEILL: Okay. Is there merit in leveraging any of the mechanisms that are available under the wholesale broadband agreement to potentially deter retail providers from supplying modems to customers if those particular models have been identified as poorly performing?

Mr Rue: The wholesale broadband agreement is negotiated every couple of years and it has, I think it's fair to say, matured over the last couple of years, but I'm sure there's some more maturing to do. Without answering your question specifically, because that is a specific question, as a general rule, I think the wholesale broadband agreement needs to look at customer experience and needs to look at the accountability of NBN and the accountability of retailers. I'm sorry; I know you want to finish the hearing—but if you could bear with me for one minute. It is often misunderstood who's accountable for what. I'm not surprised because, if you're in the home, you just want your service to work; you don't really understand the background. You don't care and nor should you. But we as an industry have to work together to create a great experience for people, and that means that we need to be held accountable for what we're accountable for and retailers for what they're accountable for. One mechanism for that is to have conversations with retailers through wholesale agreements that we may have with them. So, without answering your question specifically, as a general principal, I think as the wholesale broadband agreement matures over coming years, the need to look at not just our commercial arrangements but how we as an industry lift customer experience.

Senator O'NEILL: So modems as part of that and specifying minimum standard.

Mr Rue: Again, I don't want that it will be, because that's specific; but that is an example.

Senator O'NEILL: It's clearly a part of the experience driving it.

Mr Rue: It's one example. We have put a lot of time and effort into our side of the bargain, with the connection and the fix and the ongoing reliability.

Senator O'NEILL: And the test et cetera.

Mr Rue: But I think we need to ensure that that is evenly spread with not just us but also the retailers.

Senator O'NEILL: Do you currently provide some sort of label or brand endorsement to modems that you judge to be of high quality?

Mr Whitcomb: We don't.

Mr Rue: No.

Senator O'NEILL: Could that be part of a WBA going forward?

Mr Rue: Again, you're asking a specific question, Senator.

Senator O'NEILL: Would you give consideration to it?
Mr Rue: Yes.

Senator O'NEILL: Because that would then, again, be another indicator to a particular purchaser.

Mr Rue: It would be something we would consider. I'm not saying we would or wouldn't, but it's certainly something we would consider.

Senator O'NEILL: If I could switch to another topic now. Would you be able to outline some of the high-level thinking about how the NBN Co plans to transition away from the build phase and towards the operational phase?

Mr Rue: At a high level?

Senator O'NEILL: Yes.

Mr Rue: Certainly, there are multiple aspects to this. So you would need to think about ongoing maturing of IT systems and how we create more data so that we can have networks that heal themselves before there's a need for them to be fixed so that we can have more data flows between ourselves and the retailers and more tool sharing with retailers. That is an IT and data sort of piece. Clearly, there will be the need for what we talked about earlier: the need to get moves, adds and changes—that's what we call it—when people move home to ensure that when people change from retailer A to retailer B we have seamless interactions to ensure that works well. We need to continue to look at our cost base and how we continue to reduce our costs down. We need to look at how we can be more nimble and reactive in a competitive sense. And we need to ensure—and we already do this but we need to absolutely make sure—that things like network resilience, IT resilience, are strong, because, as a critical national infrastructure, we need to ensure that is happening.

At a high level, therefore, we need to look at the skills and capabilities that we need from an IT point of view, from a capability of workforce point of view and ensure that we transition the company towards that. This is something that will happen gradually over the next three to four years. There will still be build posts. For example, June 20, there are still going to be node splits, there are still going to be greenfields that we are building, there will still be fixed wireless capacity upgrades. Clearly, we will need to transfer the skills that we will need into an operating business unit. So, there's clearly a transition of the company from where it is today in terms of IT, in terms of capabilities, in terms of focus on the company. It's something that we will increasingly address, although, today, I can assure you we're focused on completing the build and connecting Australians. As Senator Urquhart quite rightly points out, next year is our biggest year of connections. I hope that answers your question.

Senator O'NEILL: That was quite helpful. There is a business transformation that's embedded in what you've just said to me. If you could, what sort of business transformation do you expect is going to be required of the NBN Co through that transition period?

Mr Rue: What do you mean? I thought I answered that. What do you mean?

Senator O'NEILL: They were the sort of high level of things which you are going to think about. How does the business have to transform itself? Are there structural reforms?

Mr Rue: Potentially. One of the things you look at is: what do we need to be great at and what is critical to our company and, therefore, what skills do we absolutely have to have? For example, we need to still have a great consumer insight, sales function. We need to be great at
area planning. We need to be good at procurement. There are multiple examples, are those are just a few of them. Therefore, what skills do you need to retain or, indeed, add into your company, for that matter? What are you best seeking partners to do? For example, we have partners building today and we've partners connecting today. Do you use an internal workforce for that or do you continue on what you're currently doing today and have a delivery partner do stuff for you? That will determine the organisation's structural change that you're talking about.

For our employees, there is still a lot of work to be done in an operating business unit. Yes, there's a transition to that, but there are still a lot of skills to develop and a lot of work to be done in an operating business unit. The answer to structural change will depend upon how you address that transition—I think that is what I'm trying to say.

**Senator O'NEILL:** And you're currently developing plans to deal with that reality?

**Mr Rue:** We will be, yes.

**Senator O'NEILL:** What principles underpin your decision-making?

**Mr Rue:** They're very much high level—it's about addressing the questions that I've just posed and ensuring that we methodically think through how our organisation's going to be, what we need to be great at, how we transition our workforce and, indeed, how we transition skills within our workforce towards that. But the most detailed plans are around the build program and the connection program going forward.

**Senator O'NEILL:** I refer to some comments that you made earlier in the week when the joint standing committee met—it might even have been in this room. Mr Mitchell asked: When does NBN Co begin making dividend payments to the Commonwealth—is that projected at all? Mr Rue, you responded in this way:

You're testing my memory, and it depends on a very long-range plan. Rather than answer specifically with the year, because I won't be able to tell you off the top of my head: the way the plan works is that NBN's cash flows—and those are cash flows after capital expenditure—are applied to pay down the debt. Once the debt is paid down, dividend payments are made then to the Commonwealth from free cash flow. That would be many, many years into the future.

During Senate estimates today, the Department of Finance indicated that NBN Co would be making dividend payments in 2032. Is that consistent with your understanding?

**Senator Fifield:** I'm not sure who said that.

**Senator O'NEILL:** It was the Department of Finance during Senate estimates today.

**Senator Fifield:** Sorry, I thought you said the department of communications.

**Senator O'NEILL:** No, the Department of Finance indicated that NBN Co would begin making dividend payments in 2032. Is that consistent with your understanding, Mr Rue?

**Mr Rue:** I know you'd love me to say yes, but can I just be clear so you understand how it's done. If you take the comments that I made—to Mr Wilson's question?

**Senator O'NEILL:** Mr Mitchell.

**Mr Rue:** Mr Mitchell's question, sure. That's consistent with one set of assumptions that we certainly look at in terms of cash flows. I should say the corporate plan is done at a detail level to 2022. Beyond that, as I've always said, it's a series of assumptions, and I think we even laid those assumptions out in the corporate plan. Whenever you do a long-range plan,
you really do a three- to four-year detail and you just do assumptions from then on. The assumptions, therefore, were that we would apply free cash flow to repaying the debt first. I don't have the detail here of whether it's 2032, but I do recall being asked about it. I think, in answer to a follow-up question, I said it's between 10 and 20 years, so that's between 10 and 20 years. But that assumes that you apply the cash flow against repaying the debt then. There actually are other ways that one could address cash flows. I've talked about the importance of having a business model. It's the shareholders' decision as to the debt-equity ratio in any business, so I have assumed in those plans, therefore, we pay down debt first and then pay dividends. You could pay dividends earlier and retain higher debt. You could increase capital expenditure.

Senator O'NEILL: Are all those options live that you just described?

Mr Rue: They are all live in the future. It will depend upon the returns that shareholders would look for, it would depend upon usage of free cash and it would depend upon a decision of whether you repaid debt down first or whether you used that cash flow for capital expenditure or for dividends, and that is normal in any company. In a long-range plan, you just make assumptions. It doesn't make a difference to the internal rate of return, by the way, what I just said; it is whether you pay debt down or dividends. But in this case, we have assumed that those cash flows would be applied to debt first. If that is the case, then dividends would flow—I'm assuming the finance is correct—around 2032.

Senator O'NEILL: Does the corporate plan account for principal repayments on the refinanced $21.4 billion loan between the years 2024 and 2032?

Mr Rue: It applies. The answer to that question is yes.

Senator O'NEILL: So that applies to that loan?

Mr Rue: It would. The dividends flow when the debt is repaid.

Senator O'NEILL: So principal repayments on the refinanced $21.4 billion loan between the years 2024 to 2032?

Mr Rue: You said 2024. There are cash flows prior to 2024 that would be applied against the $2 billion debt that we need to go to market to get first.

Senator O'NEILL: The additional $2 billion?

Mr Rue: Yes. That goes and 2024 is the repayment of that debt off over a period of time.

Senator O'NEILL: How much of your free cash flow is directed towards principal repayments?

Mr Rue: All of it. In that example, all of it would be applied towards it. But that's just for assumptions in the model. You can apply that cash flow to dividends. You could apply that cash flow to further investment, presumably in capital expenditure, that would provide a return again to the Commonwealth or to the shareholders. So it's the assumptions in the plan. It is impossible for me to project what we're going to do in 2026, for example. So it is a series of assumptions that we've applied, which is the cash flow goes against the debt.

Senator O'NEILL: So to be clear in my understanding of what you said, is there no principal repayment prior to 2024?
Mr Rue: I think, from memory, not against the $19.5 million government loan, but certainly against the $2 billion that we will be borrowing ourselves in the private market. Yes, there would be repayment of that debt.

CHAIR: We have skipped a break and we have Hansard and the secretariat and departmental staff here. I need an indication of how long you are likely to need.

Senator O'NEILL: I have two more in this section and then I've got another seven or eight questions and that's it. I'm happy to take a break if people need to.

CHAIR: I wondered if there are any you might be able to place on notice.

Senator O'NEILL: Can I continue this line and then I'll try and speed through the next section because this is quite detailed.

CHAIR: That would be perfect.

Senator O'NEILL: I have to go back to where you were and get my head back in the space. The $19.4 billion, you said, would not be touched before 2024?

Mr Rue: I don't believe so. If it is, it is a very small amount.

Senator O'NEILL: But the $2 billion you expect to raise in the private market, you would commence repaying that prior to 2024?

Mr Rue: That is correct.

Senator O'NEILL: At what year would you commence repaying that?

Mr Rue: In 2023, I believe. Yes, it must be because we will be cash flow positive in that year, so 2023.

Senator O'NEILL: And if I heard you correctly, 100 per cent of the free cash flow would be used to pay that debt down. Is that correct?

Mr Rue: That's correct, in the assumptions in the model. And sorry to reiterate this but, beyond 2022, it is assumption based.

Senator O'NEILL: So would the remaining $19.5 billion, after that first $2 billion is paid down from free cash flow, then begin to be repaid in principal from 2024 to 2032?

Mr Rue: It's either 2024 or 2025 to 2032 to be precise, but certainly I think it will be from 2025 onwards. I don't have it, but, broadly, yes.

Senator O'NEILL: If you want to give me a more detailed answer on notice, that would be great. But we're getting somewhere here.

Mr Rue: Again, it's assumption based, so you're asking me to project five years of cashflows and what we do with it in five years time. The assumption is that we would start to repay that loan. I believe it's 2025 onwards and maybe a small amount in 2024.

Senator O'NEILL: Mr Rue, you indicated: 'Once debt is paid down, dividend payments are made … from free cash flow.'

Mr Rue: That's correct.

Senator O'NEILL: By this do you mean that once debt is entirely paid down or once a designation of an amount of principal for that year is paid down?

Mr Rue: No. I'm not sure I understand the distinction in your question, but let me just say this. When debt becomes zero—so there's no principal, there's no interest, there's no external
borrowing—it is assumed at that point in time that free cash will be applied to dividends. Again, that is just one model. I'm not sure I understand the import of this, because there are other ways to do that. As I said, you could apply that free cash—you could decide to have a different debt-equity ratio.

Senator O'NEILL: I understand that that could change in the future, but I'm trying to gauge your thinking right now and I'm trying to understand what you're telling me. Based on what you've said so far, it means that it's about $2.4 billion of your principal per year that you're going to pay down; is that correct? Is that what you're anticipating to make those numbers work?

Mr Rue: Whatever $19.5 billion divided by seven years is. That sounds about right.

Senator O'NEILL: What are the assumptions in relation to principal repayments on the $21.4 billion loan and does the corporate plan assume some form of amortisation of the schedule?

Mr Rue: I'm sorry to be pedantic on this, but the corporate plan assumes nothing to do with this because the corporate plan only goes to 2022. I'm sorry, Senator—

Senator O'NEILL: These are forward planning documents though.

Mr Rue: I think it's important for you to understand it is a model. It is not even a plan; it is a model. This is the way that you do long-term plans. You get to a point in time when the business is mature. By 2022 we are cashflow positive. By 2022 you've been through what you call the churn event, we've completed the build and we have 75 per cent of customers on our network. At that point in time there are multiple things you can do. You can build new revenue streams, you can invest more in capital expenditure—you can do different things. The debt-equity ratio depends upon shareholders' views. It's a matter for them, not for me. They may choose to have a different debt-equity ratio on the company. They may want me to apply free cashflow against capital expenditure. They may want me to give dividends.

Senator O'NEILL: Yes, which is what you indicated.

Mr Rue: They may want me to just repay the debt. There are tonnes of things you can do. To be very clear: the corporate plan and the plan only go to 2022. The rest is just a series of assumptions, no more.

Senator O'NEILL: But with regard to debt, in order to repay $19.5 billion in the period between 2025 and 2032, which is roughly what you said is the anticipated model, that would require—seven into $19.5 billion—$2.7 billion in principal repayments per year.

Mr Rue: It sounds about right. I think I know what you're going to. In 2022 we have in our corporate plan revenues of $5.6 billion and costs of $2.7 billion, so an EBITA of about $3 billion. We have capital expenditure, which is maintenance capital expenditure, of about $1.2 billion. That $3 billion EBITA is assumed to grow over the years because you will have ongoing greenfields being built and, therefore, ongoing revenue streams and you will have ongoing we think growth in revenue because we'll continue to sell in the business segment and/or we will have people move to higher speed tiers. Therefore, the EBITA will grow.

So I think what you're trying to get to is: what is the free cashflow in the business? Over the period of time from 2022 we have $2.9 billion EBITA, as I said, and $1.2 billion capex. That's $1.7 billion but that will grow over a period of time. If you use those
assumptions that we continue to grow our revenue, you will have a growth in that free cashflow, which I think is where you are going—

Senator O'NEILL: Yes.

Mr Rue: which is why you would have that cashflow to repay the loan whether it is 2.4 a year or it’s 2 I'm not sure—

Senator O'NEILL: Two point seven—

Mr Rue: but it is in that order.

Senator O'NEILL: That answers this question: where does the $2.7 billion per annum come after interest payments? Where does it come from?

Mr Rue: What is the 2.7, sorry?

Senator O'NEILL: That you just referred to.

Mr Rue: Is that the debt repayment you're talking about, Senator? I'm sorry. I'm confused about your 2.7.

Senator O'NEILL: You said over seven years in $19.5 billion that was the $2.7—

Mr Rue: I think you said 2.4, but whatever the number is—

Senator O'NEILL: Originally you said 2.4—

Mr Rue: Whatever that is—

Senator O'NEILL: but it's 2.7—

Mr Rue: Whatever the free cashflow is, is after interest payments, yes.

Senator O'NEILL: Thank you. I might have a couple more on notice.

Mr Rue: I think what you're—

Senator O'NEILL: The growth of your profit you see is going to grow to 2.7?

Mr Rue: No. Again, I don't know if the maths is exactly correct. The 5.6 revenue we anticipate will continue to grow. Certainly, we will look at the cost base. I would hope that would not grow—although our long-term plan assumes there is a growth of 2½ per cent. Then we would have capital expenditure and interest payments, and that certainly generates a reasonable cashflow that we've assumed then is used to repay debt. But, again, that cashflow could be used other ways.

Senator O'NEILL: My final set of questions is around technology choice. I have a description of a few people's experiences that I want to put on the record. So if you can bear with me, I will read it because it matters to the people who have had this experience, and then I have a number of questions.

Mr Rue: Have these experiences been shared with our office?

Senator O'NEILL: I cannot answer that question. If that is not the case, I expect that probably they have—

Mr Rue: I would like you to do so if possible, please.

Senator O'NEILL: Sure. In July 2016 I understand that a strata complex in Forest Lodge New South Wales requested an upgrade to the FTTP under the Technology Choice Program. The NBN Co advised the applicants to wait until early 2017 and submit their application as a
fibre greenfield area was being deployed about 200 meters away and that would help reduce the cost.

In February 2017 an area switch application was submitted and a $1,100 application fee was paid. NBN Co then undertook a site visit and in May 2017 provided a cost estimate of around $100,000 for 19 homes. Following a series of questions from the applicants, a second cost estimate was issued in July for $25,000—a quarter of the initial quote. The applicants advised NBN that they wished to proceed, and we understand NBN Co offered to generate a formal agreement to that end within one week but then proceeded to delay providing a contract without explanation for a period of five months.

In November 2017 NBN Co conducted another site visit and in December provided a revised and final build quote of $34,390.58—accurate to the cent. The applicants then advised NBN Co that they wished to progress as soon as possible, however, it's understood that NBN Co still did not provide a final contract despite multiple requests by the applicants. Following this, in February 2018 NBN advised they wanted to withdraw their offer and refund the $1,100 application fee. I can't believe the experience that these people have gone through. You can imagine the anxiety and concern and the sense of wasted time.

The applicants refused that offer from NBN Co and they advised that they wanted to proceed with the technology choice upgrade. Then for a period of six months NBN repeatedly advised the applicants that a policy change was imminent within a few weeks that would allow the application to proceed. In September 2018 we understand NBN Co told the applicants they could not perform the upgrade.

That is a very specific story with a very, very clear timeline, but, Mr Rue, this is, sadly, not an uncommon story when it comes to NBN technology choice and it's extremely frustrating for the people who are involved. Why does NBN Co operate a technology choice program if the process is going to be so excruciating for people?

Mr Rue: I can't comment on that specific thing. As I said before you even read it out, I'd like you to give us those specific details so we can respond to them, not so much as a question on notice. If you give us the information, whether it's come through your office, or whoever's office it's come through, we will have the team look at it. What I would say is that the application process is something that we are looking to streamline. We're not quite there yet, but we will have something to say about it soon. There's no doubt we need to streamline the application process. On the specific issue, let us take that away, Senator, and we'll work with your office or with whoever it's been raised with.

Senator O'NEILL: The question is: how can a cost estimate be out by a factor of four within a two-month period?

Mr Rue: There are often multiple factors, but let us take that away with us. If you give us the names and details of the people, we can address that.

Senator O'NEILL: To a more general question: is NBN Co happy to provide a breakdown of the cost components underpinning the technology choice upgrade quotes, where customers have paid an application fee and a quote has been supplied?

Ms Dyer: All tech choice applications are made up of very, very different costs. Often there's a new pit and pipe or passive infrastructure that's required—fibre builds and additional transit capacity to the area. So we look at it very much from an area planning point of view to
try and reduce costs where we can. But specific to this example that you've given we could give you the broad range of what made up the components of the cost.

**Senator O'NEILL:** Do you know whether any savings are incorporated into area switch build quotes as a result of avoided build costs?

**Ms Dyer:** That is taken into consideration, depending on what's going on in the area and what capacity upgrades are planned for the future. Again, Steven mentioned our evolution to more of an area planning view, and that's where you look at all of your network in an area and make those investment based decisions on the network that's available. So we are looking at that and we are looking at additional plan capacity upgrades when we get technology choice applications—would we be investing in that area, and could we offset some of those costs?

**Senator O'NEILL:** Can you confirm then that quotes are the incremental cost of going from one technology to another?

**Ms Dyer:** Broadly, yes.

**Senator O'NEILL:** Are the cost-per-premises guides in the corporate plan a reasonable indicator of incremental costs with a sufficiently scaled area switch quote?

**Ms Dyer:** Not really, no.

**Senator O'NEILL:** Do you find that the nature of small area switches attract a higher cost?

**Ms Dyer:** Again, it really depends. There are so many factors that impact an area switch application. We've had examples, say in Victoria, where, as part of the quote, we've had to build a 17 kilometre fibre run to get to an area to switch them. When there's no passive infrastructure in an area, it's potentially in the order of a million dollars to get to an area. So it really depends on the area—what network is available and how many premises are there. Again, this is a factor of the Technology Choice Program that we need to look at very carefully.

**Senator O'NEILL:** Are the cost-per-premises guides in the corporate plan a reasonable indicator of incremental costs?

**Ms Dyer:** For technology choice?

**Senator O'NEILL:** Yes.

**Ms Dyer:** No.

**Senator O'NEILL:** With the case that I just referred to, the applicants have been continuously requesting an opportunity to proceed since mid-2017, nearly two years ago. Why is the NBN being so consistent in its determination to delay the fibre upgrade that the residents have been seeking?

**Ms Dyer:** I would really be very keen to review that application myself, because I agree: that's not a good experience for that customer. I'm very curious myself to find out exactly what happened there. What typically happens in the Technology Choice Program is: when a customer first approaches NBN, we do what we call a desktop analysis of the network, which will give us an indicative route to connect the customer; when we visit the site and look at the infrastructure—and this is where the variation occurs, and I fully appreciate that the variation is not ideal at all—our desktop assessment often doesn't meet what we actually see in the
field. But I would like to investigate this example, because I fully agree that it's not a good customer experience.

Senator O'NEILL: Given FTTB is a better long-term economic option for people than HFC, customers are paying for the upgrade. Wouldn't that be a better outcome? Can they determine that, or do you get to determine the technology that they must have if they're going for an upgrade?

Ms Dyer: The strategy I get for the technology to construct in areas is set, and that is made on a number of parameters. But where a customer is requesting a specific premises switch, or if it's an area switch for a building—for example, if they're in an MDU—the customer can apply for an FTTP upgrade as well. So they do have that option.

Senator O'NEILL: Just for clarification, is technology choice available to premises in designated HFC areas?

Ms Dyer: It's currently under review for HFC—how we're going to apply the Technology Choice Program—and it's something that we're working on now.

Senator O'NEILL: So the answer is no.

Ms Dyer: Not currently.

Senator O'NEILL: If that is known to you, how could there be the carrying out of two site visits, the provision of three quotes and the dragging out of this process over many, many months in the case that I just described? How could that happen?

Mr Rue: Let us take the details away. We'd like to get back to you on that.

Senator O'NEILL: Why are HFC areas different to FTTN areas?

Ms Dyer: We're looking at it with technology choice. It's also how we deploy overlaying infrastructure, even in our spatial systems, utilising our IT; it's the way we deal with our assets. It's not simply constructing an alternative technology in an area. There are a number of things that we need to consider, and we're currently looking at that now—how we would go about potentially offering technology choice in those areas.

Senator O'NEILL: I guess, given the NBN Co has tried to persuade the minister to dump HFC entirely and instead employ fibre to the curb, why won't you deploy fibre under a user-pays model? That's my question.

Ms Dyer: It is something we're currently looking at, but it's something we don't have available now.

Senator O'NEILL: I'd like to understand why. Could provide on notice why it's not available.

Ms Dyer: Yes.

Mr Rue: Senator, it's for the reasons Katherine said: it's IT systems; it's processes we need to build. There's no other reason. I don't know if we can give any more on notice. It's simply the time it takes to do those things.

Senator O'NEILL: Okay. You might need to change the communication with the community.

Mr Rue: Again, let us look at that particular instance, please.

Senator O'NEILL: All right. Thank you.
CHAIR: That concludes the examination of this portfolio. We have to have our questions on notice in by 28 February. Thank you, Minister. Thank you, officers from NBN. And thank you to Hansard, Broadcasting and the secretariat. The committee is adjourned.

Committee adjourned at 10:08