

**Mr D McDonald**—Social media is the responsibility of ACMA, coming under the Broadcasting Services Act. Unless a game is a marketed game, it does not come to us.

**Senator PRATT**—But the boundaries of that are certainly blurring at the moment, which I suppose in part is my question. Take the iPhone app for *Glee*, where there is a lot of social interaction and players rate each other. That seems like a fairly safe environment because people are simply singing on it, but there are certainly other applications that are very difficult to tell if they are a game or a social media application.

**Mr D McDonald**—I suggest that is actually one of the points of these various inquiries. There is wide acceptance that there is blurring—and you yourself used that phrase. I am sure that is what the ALRC, the convergence inquiry and this committee's inquiry will turn their attention to. The classification scheme as it exists is working perfectly well in respect of standard media. It is still working perfectly well for films, DVDs and publications. Where it is not working effectively is in areas that were not imagined at the time the legislation was written 20 years ago.

**Senator PRATT**—Thank you.

**CHAIR**—Mr McDonald, thank you again for your work and the effort and time you have put in to assisting us with our inquiries and with our estimates processes over the years.

**Mr D McDonald**—Senator, thank you. They have been four unforgettable years.

**CHAIR**—We do not have balloons to drop from the sky or anything, but I guess at some appropriate time people will recognise your work and thank you for that appropriately.

**Senator Ludwig**—The government thanks Mr McDonald for his work over the four years. I have been with him for some of those years. The government thanks him for his service.

**CHAIR**—We might cross paths during our inquiry before you finally head out the door.

[11.54 am]

#### Attorney-General's Department

**CHAIR**—We are now going to jump to the department and cross-portfolio questions before we move to program 1.1. Senator Barnett, I think you are going first in this area.

**Senator BARNETT**—Mr Wilkins, I will give you a heads-up on four reports that I have an interest in and we can get to them later in the day. They are consultant reports Nos 2, 3, 18 and 26. They are: No. 2, ACIL Tasman, *Final regulation impact statement on the proposal of the National Legal Profession Reform Taskforce*; No. 3, ACIL Tasman, *Assessment of the economic impact, including cost-benefit analysis, of proposed regulatory reforms*; No. 18, Deloitte Touche Tohmatsu, *Internal audit services, \$1.3 million*; and No. 26, Malcolm Pascoe, *Update data in the legal aid funding distribution model revised in September 2009*. Please take that on notice for later today—as soon as convenient. I also have some follow-up questions on the ALRC, the Australian Human Rights Commission and the Classification Board. We had those witnesses this morning. I can ask those questions now, if that is convenient, unless you want to do it later in the program.

**Mr Wilkins**—I am not sure what the chair's position is on this. There is a list of different areas that were shown in one of the proceedings. But I am happy to take the questions.

**Senator BARNETT**—Do you want me to kick off and we will see how we go?

**Mr Wilkins**—Sure.

**Senator BARNETT**—Do we have a date yet for the commencement of the new commissioner of the Australian Law Reform Commission?

**Mr Wilkins**—No.

**Senator BARNETT**—You have heard evidence today from the Australian Law Reform Commission about their budgetary constraints and the fact that they will be having two commitments in terms of lease costs through to September 2012. They will be paying two lots of rent—not necessarily double rent but two lots of rent—from 1 July this year. What is the response from the department in terms of that additional cost burden on the commission and its ability to pay for a new full-time commissioner at the same time?

**Mr Wilkins**—We can go all the way through the answer to that question we gave to the committee that was looking at the ALRC. I will ask Renee Leon to answer that question and we can go through their budget again, if that is what you want. We have done that once before.

**Senator BARNETT**—No, you have not. With the greatest respect, you have not. We have new evidence put to the committee today about the commitments with respect to the leases. You have got a double commitment—that is made clear; it is on the evidence today—and you said there would be transitional funding. I would like to know details regarding the transitional funding, please.

**Mr Wilkins**—Okay, we will deal with that. I will ask Renee Leon if she could explain it to you.

**Ms Leon**—As the president of the commission was careful to point out, the commitment will be to renting two facilities. But I do not believe that the president is necessarily expecting that the committee will need to pay the rent in two facilities, because they are taking steps to sublease their original premises. So, should they be successful in doing so, they will, as well as being relieved of the burden of the rent in their original premises, enjoy a number of months rent holiday from the Australian Government Solicitor in their new premises as part of the negotiations for the move. So whether they will be struggling with their budget or not will obviously depend on the outcome of those commercial arrangements about the subleasing of the premises. As the president said, it is not possible to predict whether or not that will occur. We are hopeful that it will occur. We will make a decision about the extent to which the commission might need departmental support in relation to the commissioner once we know whether they have been successful in subleasing their premises and therefore finalising their budget for next financial year.

**Senator BARNETT**—How much transitional funding is the department budgeting to provide to the commission?

**Ms Leon**—Our budget for the next financial year is not finalised yet.

**Senator BARNETT**—The advice that we have been given on the record by the department is that transitional funding would be provided to the commission.

**Ms Leon**—That is correct.

**Senator BARNETT**—Have you determined the amount of the transitional funding?

**Ms Leon**—No.

**Senator BARNETT**—When will that be determined?

**Ms Leon**—When we are apprised of the situation with the commission's budget for the next financial year, which we are not able to be apprised of until there is an outcome as to their efforts to sublease their premises.

**Senator BARNETT**—Which may be 1 July this year or many months later.

**Ms Leon**—If they have not subleased their premises by 1 July, then obviously we will start to budget on the assumption that they have not subleased their premises. If they have subleased their premises by 1 July, then we will budget on that basis.

**Senator BARNETT**—I want to now go to a related matter. Is it the case that with respect to the financial framework legislation the ALRC was by far the most significantly affected entity?

**Mr Wilkins**—In comparison with what?

**Ms Leon**—In what way?

**Senator BARNETT**—My understand and reading of that legislation is that it was an omnibus bill that impact a whole range of agencies. For example, it brought Australia Post under the CAC Act, it changed the name of the Australian Wine and Brandy Corporation Act and it made administrative changes to the CAC Act. But the major changes were the ALRC governance arrangements, as it abolished the deputy chair, reduced the minimum number of commissioners, put in place new advisory committee appointments by the AG et cetera. There were also changes to the Criminology Research Act. Do you concede that the ALRC was the most significantly affected entity by that legislation?

**Ms Leon**—As we canvassed in the committee when it was inquiring into the Law Reform Commission just recently, the changes that were implemented by that act are part of a long line of changes that are being implemented to deal with the Uhrig review into the way in which statutory bodies are constituted in the Commonwealth. It is a finance department act. They administer the financial frameworks legislation and so they are responsible for the implementation of that view and for the financial frameworks that apply to a range of statutory bodies. In addition to the implementation of the Uhrig review, no doubt the department of finance also uses its omnibus legislation to make other changes to the financial arrangements for other bodies. I do not think that this department can really comment on the reasons for those, the nature of those or the impact of those on those other bodies that are outside our portfolio. What I can say in relation to the Law Reform

Commission is that the changes that were implemented on the Law Reform Commission in that legislation were ones that are consistent with the way in which the Commonwealth has over time been seeking to bring bodies that are not appropriate to be operating as commercial bodies within a normal financial management act framework.

**Senator BARNETT**—I am advised that 14 pages of the 56 pages of that legislation related to the changes, which were quite dramatic, to the ALRC. Were they consulted about the changes?

**Ms Leon**—They were consulted about the changes. They were consulted about the concept of the Uhrig review applying to the Law Reform Commission in 2008, and they were then consulted in detail about the drafting of the legislation while it was being drafted.

**Senator BARNETT**—Can I move on to the Australian Human Rights Commission and their advice that the abolition of the Marriage Act was one option that they would consider, following Ms Branson's attendance at this international conference. This is perhaps a question for the minister, rather than the department, as it is a policy related matter. Can the minister rule out the abolition of the Marriage Act as an option for the future?

**Senator Ludwig**—I think I could, but I will certainly check with the Attorney-General as to his view.

**Senator BARNETT**—Check with who?

**Senator Ludwig**—The Attorney-General—it is his legislation.

**Senator BARNETT**—You think you need to check with another cabinet minister?

**Senator Ludwig**—I think I can, without any shadow of a doubt. But let me also do so for the record, given that it is his portfolio and in his legislation.

**Senator BARNETT**—Does it concern you that the Australian Human Rights Commission is willing to express a view which is, I would say, certainly contrary to the view of the parliament in terms of the parliament's current support for—as in, it is in legislation that had bipartisan support in 2004—marriage between a man and a woman? The Australian Human Rights Commission would appear to have a view contrary to that—and, indeed, contrary to current government policy, as expressed by the Prime Minister as recently as late last year.

**Senator Ludwig**—If I recall the conversation around the question that you had for the commission, I think they acknowledged that their views would differ from government on occasion. Certainly you did not take issue with that and I do not take issue with it either; they are an independent body and entitled to their separate views. That does not always accord with the government view. And quite frankly it does not surprise me that it does not always accord with the government view. You do want an independent body that does provide separate and different advice on occasion.

**Senator BARNETT**—Do you agree that millions of dollars of taxpayers' money has been provided to the Australian Human Rights Commission for educational purposes?

**Senator Ludwig**—It is not a matter of whether I agree or not; they might be the facts of the case.

**Senator BARNETT**—It is a fact; I am just confirming that you acknowledge that.

**Senator Ludwig**—If that is what the portfolio budget statement says they received, then that is what they received.

**Senator BARNETT**—That is what we discussed this morning.

**Senator Ludwig**—Yes, I do recall that.

**Senator BARNETT**—So they are using taxpayers' money for educational purposes, to educate the community, including members of the public—including children, I would assume—with respect to their views on marriage: that, in their view, it should be non-discriminatory and that one of the options would be to abolish the Marriage Act.

**Senator Ludwig**—I think that is a misrepresentation of the evidence. I think they are entitled to provide information to the community about what they do within their budget as an independent statutory authority. I think you have misrepresented their position and the size and scale of their expenditure. But, that aside, they are entitled to provide their view, independent from government. That is why they are independent from government.