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THE MINISTER OUTLINES PROPOSALS FOR CHANGE

Proposed changes to the law relating to communications and "some areas where changes may have to be considered" were outlined by the Minister for Communications, the Hon Neil Brown, QC, to the Australian Communications Law Association, (ACLA), at a Sydney luncheon on 2 September 1982.

The Minister told ACLA members of the need to define: "What we are trying to achieve through communications law".

"Inevitably, there is a need for some degree of control and regulation", he said, "but our concern should be that we do not over-control or over-regulate".

"That can certainly be counter-productive. The classic case of this must surely be the ban introduced some years ago on radio and television advertisements of cigarettes and tobacco. The result is clearly that by sponsorship of sporting and other events which is legitimate and lawful, we now have more exposure to cigarettes and tobacco on television than we had before the ban. That is the result of an excessive desire to control and regulate and shows how counter-productive it can be because we now have more of what was to be banned and we now have it on the ABC

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as well. So, before we go banning advertisements for other products we should temper our zeal with some common sense."

AUSTRALIAN BROADCASTING CORPORATION

The Bill to establish the new Australian Broadcasting Corporation was expected to come before the Parliament shortly, Mr Brown said.

"The processes which will end with the introduction of the Bill are a fascinating study in public administration, just as the Dix Committee Report is a fascinating analysis of the operations of a large statutory authority."

The Minister continued:

"The Dix Committee made more than 270 recommendations for changes to or within the ABC. While many of these were matters mainly for the authority to consider - and I instance the management practices of the ABC - some of those matters were of such importance that the Government felt it necessary that it consider the implications and convey its views to the ABC. All of the recommendations had to be grouped and considered in an orderly way, which itself was an imposing and time-consuming task."

"Many of the recommendations of the Dix Committee that we accepted, and many of the other decisions that we made, clearly had to be embodied in legislation. It became very apparent that what was needed was a new Act of Parliament dealing with the ABC, establishing it anew, declaring its charter and providing the details of its structure and functions. The ABC will therefore have a separate Act and that, by itself, will be a major advance in communications law."

"The removal from the Broadcasting and Television Act of legislation establishing the ABC and defining its powers and functions is the first step to confining that Act to the regulatory framework of broadcasting and television services. I hope that that is what the Broadcasting and Television Act will become - an Act dealing with the regulation of radio and television

broadcasting, not cluttered up with other matters that should be contained in separate statutes."

"The Special Broadcasting Service should also have its own statute. This will not solve the undue complexities in the Broadcasting and Television Act, but at least it will mean that this legislation is not cluttered with provisions which solely concern the administration of services provided by statutory authorities of the Commonwealth. We will then be in a position to make the Broadcasting and Television Act a clearer and better directed legislative framework for radio and television broadcasting."

SUPPLEMENTARY RADIO AND TELEVISION LICENCES

"I announced recently the decision to provide for supplementary radio and television licences in areas outside the five mainland State capital cities. There are now provisions in the Broadcasting and Television Act for the grant of supplementary radio licences, but there will be some necessary amendments and improvements made to those provisions. The most significant, of course, will be to extend the supplementary licence concept to television", the Minister told the ACLA luncheon.

He continued: "Because of the short time scale involved, there may be some difficulty in finalising the bill for supplementary broadcasting and television station licences before the Autumn 1983 Session of the Parliament. However, it is our intention to introduce and pass the legislation this Session if at all possible."

"It is intended that the Bill should seek to simplify the legislation, for example by changing the basis of the scheme from the licensing of a 'station' to the licensing of a 'service'. For those concerned with communications law, the new supplementary licence provisions will be a very significant addition to that body of law."

RADIOCOMMUNICATIONS BILL

"There will shortly be a new Radiocommunications Bill. This will be a major legislative proposal concerning the administration of the radio spectrum."

"The Wireless Telegraphy Act 1904 provides for administration of the radio spectrum through the grant of licences for non-broadcasting purposes. This may not be the most ancient piece of Federal legislation remaining on the Statute books, but it certainly would be one of the oldest pieces of Federal legislation which is still serving a major regulatory purpose."

"There have been few amendments to the Wireless Telegraphy Act since 1904. This is not to suggest that regulation of the radio spectrum has not been regarded as an important function of government. The reason for the legislative inactivity is that we have not, until recently, had the demand experienced in other countries for access to the radio spectrum for private communication purposes."

"I believe also that we have, in a national sense, been somewhat conservative in allowing private organisations to have access to the radio spectrum. Some part of this conservatism related to the protection desirable or otherwise, of the national telecommunications system from competition, particularly when the radio spectrum and telecommunications services were the responsibilities of the former Postmaster-General's Department."

"All that has changed in recent years with development in electronics, which has resulted in less costly receiving and transmitting equipment being freely available."

"The proposed Radiocommunications Bill will introduce substantial reforms to the administration of the radio frequency spectrum. I have to say that the proposed Bill may increase the regulatory powers of the Government in some respects. Without proper regulation, radio equipment may interfere inadvertently with the use or enjoyment of

public or private services. A common complaint is that of private radio equipment interfering with reception of radio and television services. In other cases, the use of equipment such as electric drills and welders can cause severe interference to the television services in neighbouring houses. These complaints are costly to investigate, and in some cases we are powerless to act and prevent the interference continuing."

"One of the reforms which the new radiocommunications legislation will probably propose is to authorise the Minister to approve standards for all transmitters and certain classes of receivers. The proposed legislation would make it an offence to supply, possess or import such equipment which does not meet the standards determined."

"The only power which now exists in respect of importing radio equipment is recourse to regulations under the Customs Act. This is a cumbersome procedure and makes it difficult, if not impossible, for positive action to be taken in time to prevent sub-standard equipment being imported and sold here on a large scale. The Minister would also under the Bill be empowered to determine standards for non-communications equipment which emit radio waves."

"It is not intended to introduce the Radio Communications Bill and then to have it passed by the Parliament forthwith. It is clearly one of those pieces of proposed legislation that should be left for some time for public debate and discussion before it is passed. We certainly would not pass it before receiving the report of the Davidson Inquiry into Telecommunications and considering its recommendations. I hope that those with a close interest in communications law will study the Bill and come forward with constructive comments and suggestions."

CABLE TELEVISION

"On the first day of the Budget sittings I tabled the interim report of the Australian Broadcasting Tribunal on 'Cable and Subscription Television Services for Australia'." (Ed: For a summary of the ABT

recommendations see 2CLB-17 to 23.)

"It is a matter of record that the Tribunal has recommended that both radiated subscription television services and cable television services should be introduced as soon as practicable."

"The full report of the Tribunal, which is in a number of volumes, will be available in a month or so, but it is obvious that the issues to be considered are complex and that in particular the proposals for cable television cannot be considered in isolation from the recommendations of the Davidson Inquiry on private sector participation in the provision of telecommunications services."

"But if (and I must emphasise the 'if') the Government were to decide to proceed with cable and/or subscription television, they would require substantial and very significant changes to the communications law of this country. Such changes would constitute a very fertile field indeed and impose at the same time a very heavy burden of responsibility on those with skills in communications law."

SATELLITE COMMUNICATIONS SERVICES

"The other separate issue on the provision of telecommunications services, which still awaits government decision, is the provision of those services by satellite and the involvement of Aussat Pty Ltd in the provision of such services."

"The Government has decided that private organisations which utilise the national communications satellite system may establish their own ground stations to transmit to and receive traffic relayed through the satellites. This is an important decision. Until recently, Canadian law required that all users of its domestic satellite system must obtain access to satellites through the ground network provided by Telesat, the company established to own and operate the Canadian satellite system. It is only recently that Canadian users, including the Canadian Broadcasting Corporation, have been permitted to establish ground networks for their own pur-

poses. There are still several major issues requiring decisions on the use of our national communications satellite system. Aussat Pty Ltd has been authorised to establish ground stations in the major capital cities and in other centres to meet the company's needs. We have not decided, however, whether the company should be solely a carrier of communications traffic or should be able to enter the so-called enhanced services area in competition with Telecom. Similarly, the Government has yet to consider whether and, if so, which private organisations may utilise the national satellite system to provide enhanced services to other users."

"The report of the Davidson Committee will clearly have a major contribution to thinking on these issues. That report is now looming as one of the key documents in the review of our national telecommunications policies. Linking as it does the report of the Broadcasting Tribunal on cable television services, and the use of the national satellite system by Aussat Pty Ltd, Telecom and private organisation."

REGULATION OF TELECOMMUNICATIONS SERVICES

"One of the interesting recommendations of the Broadcasting Tribunal in its most recent report is that, in the long term, a single Federal authority be established with responsibility, including regulatory responsibility, for both broadcasting and telecommunications. This recommendation will, of course, receive careful consideration."

"Once decisions are made on the extent to which there should be competition in those areas where Telecom now has a monopoly, the extent to which there is a need for regulation of competing services will be considered."

"Even in this brief outline of possible changes to our law of communications, it is apparent that much is going to happen over the next few years."

"I think the communications area is unique for the number and nature of

the changes which are on the horizon. New or improved services, now available through advances made in electronics and developments in communications carrier systems, can aid society in the pursuit of learning and leisure. What I see as the main challenge is to develop the legal framework which will encourage institutions to take advantage of the new technologies, but will also see that the interests of the consumer are protected where this is necessary."

"There will be a heavy responsibility placed on those who have professional skills in communications law and an interest in this challenging field", the Minister concluded.

Telecom in the 80's

Telecom Australia, having provided the Australian community with an information system amongst the world's best, now faced the challenge of traumatic change, Mr Bill Mansfield, Federal Secretary of the Australian Telecommunications Employees Association, told an ACLA luncheon in Sydney on 28 July.

He said the communications system of tomorrow would be significantly different to today, but the changes would be an extension of today and not a communications system which was fundamentally different.

"For business and commerce we are looking at systems which provide voice, data, facsimile and video facilities", Mr Mansfield said. He continued:

"The transmission costs for broad band systems are falling in real terms. In the future, advances in digital switching and transmission systems will result in a decrease in the cost of these systems."

"The ability of Telecom to continue to provide services to the community in an equitable manner at prices

most can afford will depend on two key factors:

- . Firstly, the maintenance of the arrangements whereby Telecom continues to be essentially the sole provider of long distance circuits.
- . Secondly, the attitude of Government towards Telecom being allowed to expand its services to take account of new technological developments."

"The present prospects are that in both areas Telecom will experience changes which will be to its disadvantage and to the disadvantage of the majority of users of the national telecommunications system."

"A feature of virtually all national telecommunications networks to date has been the transfer of profits from high revenue areas to areas of loss, so that costs are held down and services brought within the reach of a larger group in the community."

"In Australia, several areas incur annual financial losses. Rural telephone services, the public telegram service and public telephones suffer losses of around \$290 million each year."

"The losses in these areas are subsidised by profits from the long distance communications area. This transfer is referred to as a cross subsidy. In commenting on the areas where profit was made Telecom's 1980/81 report stated:

'On a geographic basis, the main profit centre was the coastal strip from Brisbane through Sydney and Melbourne to Adelaide.

On a service basis, trunk calls, particularly the high volume, high growth, inter-capital calls were easily the most important generators of profit.'

"Telecom has estimated that if its ability to cross subsidise the areas of financial loss is seriously reduced there will inevitably be increases in charges."

"The position of the entrepreneurs