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## OWNERSHIP AND CONTROL STUDY BY THE FORWARD DEVELOPMENT UNIT

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In August the Minister for Communications, Mr. Michael Duffy, announced the Forward Development Unit ("FDU") of the Department of Communications would conduct a study into the existing ownership and/or control rules applying to commercial television stations.

The terms of reference of the study are as follows:

1. to evaluate current regulation of ownership and/or control in terms of its effectiveness in achieving the Government's stated policy objectives;
2. identify the principles which should underlie any system of ownership and/or control; and
3. develop alternative proposals, and/or draft legislative guidelines for amendment of the Broadcasting and Television Act 1942.

The FDU has been directed to identify proposals which are consistent with:

- (a) the possible introduction of multi-channel services;
- (b) the possible aggregation of service areas outside Sydney and Melbourne; and
- (c) maximising competition between services.

The report of the FDU is due to be delivered to the Minister by 31 March, 1986. Whilst the terms of reference specify that the FDU will consult with industry, unions, consumer groups and other interested organisations it would appear that any consultation outside the industry, particularly with representatives of the general public, will be limited.

As referred to in the previous issue of the Communications Law Bulletin the FDU has recently released its report on Future Directions for Commercial Television. The value of the ownership and control Report must be lessened by Mr. Duffy's statement that the Government intends to make important decisions at the end of 1985 about the future path commercial television should take based on the last FDU report. It may be too late by March 1986.

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## RADIO COMMUNICATIONS PRIVACY

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The Department of Communications on 1 September issued a discussion paper on Radio-Communications Privacy. The purpose of the paper is to promote informed discussion about possible measures to protect the privacy of radio-communications in Australia. One suggestion is that there should be similar legislation applying to radio-communications as applies to the interception of communications over the Telecom network under the Tele-communications (Interception) Act 1979.

The kinds of interception dealt with in the discussion paper include:

- that by journalists, tow-truck drivers and others who have an interest in monitoring emergency services such as police, ambulance and fire brigade transmissions;
- casual "eaves dropping" by people whose only motivation is curiosity;
- the work of government law enforcement and security agencies;
- business firms which monitor the activities of their commercial rivals; and
- persons who intercept police or commercial traffic, for example, for criminal purposes.

The paper refers to the development of commercially available radio receivers called "scanners" which are computer controlled and can be programmed to scan the radio frequency spectrum to locate a radio transmission and monitor it for its duration.

It is pointed out that radio-communications are much more susceptible to interception than messages via a wired network. This problem is compounded by the difficulty of detecting eaves droppers and by the potential difficulty of enforcing regulations under private legislation.

The Australian Law Reform Commission's 1983 Report on Privacy took the view that a person's communications should not be monitored without their consent, where they take place in circumstances that reasonably suggest a desire for privacy by the participants. That report called for the use of scanners to be closely considered. However, scanners at present are not licensed under the Radiocommunications Act 1979.

ions Act 1983.

As the paper points out it can be argued that where people send radio messages which are easily received and understood by simple radio receivers people should not expect them to be regarded as private in any real sense, but rather as akin to a conversation in a public place.

However one possibility suggested is legislation similar to the Telecommunications (Interception) Act regulating the use or possession of equipment for decoding any radio communications which have been encrypted. The effect of such measures on government security agencies was noted.

The discussion paper points out that concern for privacy in radio-communications would require powers of entry and search and that there needs to be a balance between justification for protecting privacy of a particular radio-communication and such intrusion. In addition, there would have to be increased costs of security in the use of common carrier radio links such as Telecom links.

The issues raised for public comment are as follows:

(a) What is the degree of privacy consid-

ered desirable by users of various types of radio-communication services?

(b) To what extent should this privacy be protected against interception efforts ranging from casual eaves-dropping to intentional monitoring?

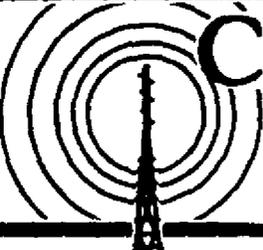
(c) Given the difficulty of enforcement, is legislation alone a viable option for dealing with the interception of radio-communications?

(d) Recognising that the protection of privacy would necessarily involve an increase in costs,

(i) What is the relative efficiency, acceptability and costs of various technical or legal methods of determining radio communications interception?

(ii) How should the cost of deterrents be apportioned to the users, transgressors, and the community at large?

Submissions were invited by 1 November.



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