

1992

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

TRANSPORT AND COMMUNICATIONS LEGISLATION AMENDMENT BILL 1992

SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendments to be moved on behalf of the Government

Section 80B of the Broadcasting Act 1942 provides a rule for interpreting, for the purposes of the licensing provisions of the Act, when the service provided under a licence is commercially viable.

These amendments amend section 80B to require the Australian Broadcasting Tribunal, when considering the commercial viability of an existing service for the purpose of deciding whether to grant a new licence, to be satisfied that the service would continue to be provided for at least 5 years. The current definition requires the Tribunal to consider viability of the service for the remainder of the current term of the licence.

The amendments are proposed after consideration of a submission from a committee of the Law Council of Australia which argued that the current definition has the potential to operate unfairly in cases where an existing licensee has only a short period of time remaining in its licence term.

Amendment (1) makes a minor consequential amendment to the commencement provision in clause 2(4) of the Bill.

Amendment (2) inserts a new clause 19(2) in the Bill, paragraphs (b) and (c) of which make minor consequential amendments to subsections 80B(2) and (3) of the Act. New clause 19(2)(a) omits subsection 80B(1) and substitutes new subsections 80B(1), (1A) and (1B).

New subsections 80B(1) and (1A) will ensure that the new rule which relates to the consideration of commercial viability over a period of 5 years applies when the Tribunal is making decisions to grant non-limited licences or to impose, vary or revoke licence conditions or determine the form of a licence.

New subsection 80B(1B) will require the Tribunal, when considering the commercial viability of a non-limited service for the purpose of the renewal of its licence, to consider viability over the term of the licence.

(Circulated by authority of the Minister for Transport and Communications, Senator the Hon Graham Richardson)

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