Australian Telecommunications Corporation Bill 1989

Date Introduced: 13 April 1989  
House: House of Representatives  
Presented by: Hon. Ralph Willis, M.P., Minister for Transport and Communications

Digest of Bill

Purpose
The Bill aims to improve the efficiency of the Australian Telecommunications Commission (Telecom) through redefining the objectives, functions and powers of Telecom and financial restructuring.

Background
Telecom is a Commonwealth enterprise which pays sales tax, customs duty, and payroll tax, and is required to finance its operating costs plus half its capital expenditures from internal sources. Telecom employs 92,487 full time staff. Telecom recorded a profit for 1987–88 of $777 million (1986–87 $443 million). Operating revenue increased by 19% to $7200 million, and operating expenses increased by 15% to $6423 million. The results represent a return on total assets of 12%. In 1988–89 the rate of return on total assets is expected to rise to 13%, and revenues to grow in real terms by 6%.1

The future direction of government transport and communications bodies was outlined on 25 May this year when a Ministerial Statement, titled 'Reshaping the Transport and Communications Government Business Enterprises', was tabled in the Senate. The Statement noted the increasing competition in international markets, the rate of technological change and the pressures these and other factors exert on such bodies. In regard to Telecom, as with other agencies, a number of specific courses of action were outlined. It is proposed to establish a new financial and corporate structure for Telecom and rename the body the Australian Telecommunications Corporation. The new corporation is to be managed by a Board of Directors and is to be established with a commercially-oriented financial structure, including obligations to pay dividends to the Commonwealth while providing for future investment requirements. Planning and accountability provisions will be altered, with more emphasis on strategic plans and agreed financial targets. In addition, the new corporation will be exempted from general administrative and personnel policies laid down by the Government, except where directed to comply, and will not require Ministerial approval for contracts, individual borrowing, and the establishment of subsidiaries and joint ventures.2
Main Provisions

The obligations of Telecom are contained in Part 3 (clauses 25 – 28) of the Bill. Under its community services obligations, Telecom will be required to ensure that the standard telephone service be accessible to people on an equitable basis. This will ensure that the current cross subsidy continues and that Telecom will not be able to concentrate solely on the most profitable markets.

Technical expressions used in this Bill will have the same meaning as in the Telecommunications Bill 1989 (clause 4).

The Bill will be subject to the Radiocommunications Act 1983 and the Telecommunication Bill 1989 (clause 11).

Telecom, established under the Telecommunications Act 1975, will continue to exist (clause 12).

Telecom’s main function will continue to be the supply of telecommunication services. Telecom’s powers will include to be able to do anything incidental to any of its powers (clauses 14 – 19).

Clauses 20 – 24 provide for the establishment, constitution, and role of a Board of Directors of Telecom and duties of the Managing Director. The Board will consist of a Chairperson, Deputy Chairperson, Managing Director, and a maximum of six other directors. The role of the Board will be to decide the objectives, strategies and policies of Telecom, and to ensure Telecom operates in an economical manner. The Managing Director is to manage Telecom.

The terms and conditions of a service supplied by Telecom to a person will be the agreed terms and conditions and, if not agreed, those decided by the Board. In either case, the Board may set charges payable for services supplied by Telecom (clause 29).

The Board is to prepare three to five-year corporate plans, beginning on 1 July 1989, which are to include a financial target. The Minister may give directions to the Board to vary the strategies and policies Telecom is to follow in carrying out its community service obligations and achieving its financial target (clauses 31 – 34, and 36).

The Minister may notify the Board of general government policy and may give directions to the Board (clause 44).

The Minister may give the Board such directions as appears necessary in the public interest. However, the Minister is not to give directions in relation to amounts to be charged for work done, or services, goods or information supplied, by Telecom (clause 45).

The Minister is to set the amount of Telecom’s initial capital and the total capital will consist of this amount, any additional capital appropriated, and reserves or liabilities to the Commonwealth converted into capital. Interest will not be payable on the capital but it will be repayable to the Commonwealth as the Minister directs (clause 47 and 48).
Each financial year, the Board is to recommend whether a dividend should be paid to the Commonwealth. The Minister may reject the recommendation and direct that a specific dividend be paid. The dividend is not to exceed net profits. Similarly, the Minister may require the Board to make a recommendation relating to the issue of an interim dividend. The Minister may either approve the recommendation or direct payment of a specified interim dividend (clauses 50 and 51).

Telecom's money may be spent only in performance of its functions; on remuneration and allowances; and for any other payments that Telecom is authorised or required to make (clause 53).

It will be an offence to refuse or fail to comply with a direction from an auditor to furnish information for the conduct of an audit. The maximum penalty for breach of this provision will be a fine of $1000 or imprisonment for 6 months, or both (sub-clause 55 (7)). In addition, a person is not to give false or misleading information to an auditor. The maximum penalty for breach of this provision will be a fine of $2000 or imprisonment for 12 months, or both (sub-clause 55 (8)).

The Minister for Finance may lend money to Telecom on such terms and conditions as the Minister determines. Telecom may borrow money from persons other than the Commonwealth, including from overseas (clauses 56 and 57).

Telecom will be liable to pay Commonwealth, State, and Territory taxes (clause 59).

The directors of Telecom, other than the Managing Director, will be appointed by the Governor-General. The Governor-General may dismiss a director for misbehaviour or physical or mental incapacity. In addition, where the Minister is of the opinion that the performance of a director or the Board has been unsatisfactory for a significant period of time, the Governor-General is to dismiss them (clauses 69 and 75).

The Managing Director will be appointed by the Minister (clause 79).

Telecom may, to determine whether any land is suitable for its purposes or for surveying or obtaining information, enter, inspect, and do anything on the land after giving notice to the owner or occupier (clause 87).

Telecom may, for purposes connected with the supply of a telecommunications service, construct a facility on, over or under any land, or attach a facility to any building or other structure after giving notice to the owner or occupier of the land. Telecom is not to obstruct a road, bridge or service line without giving notice of its intention to do so, and ensure that facilities are installed in a way that will not obstruct traffic of people, cars, or ships (clause 88).

Telecom may, after giving notice to the owner or occupier of the land, cut down any vegetation that obstructs, or is likely to obstruct, the operation of a Telecom facility (clause 89).
Clause 90 provides that Telecom may alter, move, remove, replace or maintain a facility constructed on, over or under any land; or a facility attached to a building or other structure. Before removing or erecting a gate, in a fence, Telecom is to give notice to the owners of the adjacent land.

Telecom is to take all reasonable steps to ensure as little damage and inconvenience is caused to a person's property. If a person suffers financial loss or damage to their land because of anything done by Telecom under clauses 87, 88 or 90, Telecom is to pay them such compensation as is agreed between them or determined by a Supreme Court (clause 92).

Where a person does work that interferes with or damages Telecom's property, they will be liable to pay Telecom compensation unless they have given Telecom notice of the work and Telecom's employees are allowed to be present and observe the work. In addition, where a person does, or proposes to do work near any of Telecom's property that causes Telecom to do work to protect the property or ensure the efficiency or integrity of a network, they will be liable to pay Telecom an amount up to the cost of the work done (clauses 94 and 95).

The Governor-General may make regulations, including prescribing penalties not exceeding $1000 (clause 105).

References

For further information, if required, contact the Economics and Commerce Group.

9 April 1989

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

© Commonwealth of Australia 1989

Except to the extent of the uses permitted under the Copyright Act 1968, no part of this publication may be reproduced or transmitted in any form or by any means, including information storage and retrieval system, without the prior written consent of the Department of the Parliamentary Library. Reproduction is permitted by Members of the Parliament of the Commonwealth in the course of their official duties.