AUSSAT Amendment Bill 1990

Date Introduced: 8 November 1990
House: House of Representatives
Portfolio: Transport and Communications

Purpose
To allow AUSSAT to be converted into a public company and to compete with Telecom/OTC in the provision of most services.

Background
AUSSAT Pty Ltd was established in November 1981 to establish, own and operate a national satellite system. Commercial operations commenced in 1985 with the launch of AUSSAT 1 (note: AUSSAT 2 was also launched in 1985 and AUSSAT 3 in 1987). The Memorandum and Articles of Association of AUSSAT initially required that 49% of the shares in the company be sold to the public whilst the Commonwealth retain 51%. The Satellite Communications Act 1984 precluded shares being sold to the public, and since 1984 the Commonwealth has held 75% and Telecom 25% of the shares. AUSSAT Pty Ltd has two subsidiary companies: AUSSAT Finance Ltd which raises finance offshore on behalf of AUSSAT Pty Ltd; and AUSSAT New Zealand Ltd whose principal activity is contracting work in New Zealand.

AUSSAT recorded an operating loss before tax of $21,925 million in 1989-90 (compared with an operating profit before tax of $3,242 million in 1988-89). The Directors of AUSSAT have attributed AUSSAT's operating loss to a contraction in bulk transponder sales due to rationalisation in the commercial television industry, the effects of a limited market in which the AUSSAT group of companies can operate, and a continued highly geared financial structure with related debt servicing costs which represent over 60% of AUSSAT's cash operating costs. Total operating revenue of AUSSAT in 1989-90 was $148,046 million (compared to $142,649 million in 1988-89). The major contribution to AUSSAT revenue in 1989-90 came from sales of transponder services (note: each AUSSAT satellite has 15 transponders, each capable of carrying one or two television pictures or up to 1000 two-way telephone conversations). Revenue from transponder services in 1988-89 totalled $97.8 million (compared to $99 million in 1988-89). Statistics relating to the operating profit/(loss) and operating revenue of AUSSAT for 1984-90 are contained in Table 1 below.

<table>
<thead>
<tr>
<th>Year</th>
<th>Operating Profit/(Loss) Before Tax</th>
<th>Operating Revenue</th>
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</thead>
<tbody>
<tr>
<td>1984-85</td>
<td>($9.182 million)</td>
<td>$532,000</td>
</tr>
<tr>
<td>1985-86</td>
<td>($42.604 million)</td>
<td>$28,649 million</td>
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<tr>
<td>1986-87</td>
<td>($34.954 million)</td>
<td>$73,682 million</td>
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<tr>
<td>1987-88</td>
<td>($10.233 million)</td>
<td>$104,075 million</td>
</tr>
<tr>
<td>1988-89</td>
<td>$3.242 million</td>
<td>$142,649 million</td>
</tr>
<tr>
<td>1989-90</td>
<td>($21.925 million)</td>
<td>$148,046 million</td>
</tr>
</tbody>
</table>

In June 1988, contracts were awarded to the Hughes Aircraft Company in the United States for the construction of two satellites to replace the two first generation satellites launched in 1985 and are scheduled to end their service life in 1992-93. AUSSAT's two second generation satellites are
scheduled for launch in 1991-92. The launch vehicle for the second generation of AUSSAT satellites will be provided by the Peoples Republic of China.

In May 1990, the Government announced that AUSSAT would be provided with a once-off injection of $100 million in equity, doubling the capital of AUSSAT from $100 million to $200 million. In making the announcement, the Minister stated that the Government's decision followed consideration by Federal Cabinet of AUSSAT's financial needs and that "the existing regulatory regime has restricted AUSSAT's market and limited its options for diversification". In its 1989-1990 Annual Report, the Directors of AUSSAT indicate that the additional equity is being used to fund AUSSAT operations and has had the effect of lowering borrowings by $100 million. Despite this injection of equity, AUSSAT's debt in 1989-90 totalled $561 million.

On 8 November 1990, the Prime Minister and the Minister for Transport and Communications announced a telecommunications reform package. The stated aim of the proposed reforms is to "promote competition and dynamism in the industry, guarantee community service obligations in telecommunications, maintain quality of telecommunications services, maintain Telecom and OTC in full public ownership, maintain maximum possible Australian ownership in the industry, further development and promote the industry, ensure effective regulation, and remove from Telecom and OTC all Government imposed constraints which limit their ability to respond effectively to competition and which do not serve the broader national interests."

The major decisions to come out of the November statement that will affect AUSSAT include:
* that AUSSAT be sold and be given the right to compete with Telecom/OTC and provide a full range of telecommunications services;
* that majority Australian ownership will be required in the consortium buying AUSSAT;
* that the sale of AUSSAT and the tender for the licence for the second carrier will be completed by 31 December 1991;
* that Telecom will be extracted from its present 25% ownership of AUSSAT and will lose its positions on the AUSSAT board;
* that the geographic constraint that restricts AUSSAT to provide services only within its present satellite 'footprint' will be lifted; and
* that the party acquiring AUSSAT will be required to provide capacity for services including pay television, remote commercial television services and the ABC's homestead and community broadcasting satellite service.

Main Provisions
New objects for AUSSAT will be introduced by clause 5. They include: the supply of telecommunications services within Australia, outside Australia, or between Australia and overseas; and any business or activity relating to telecommunications within or outside Australia (clause 5).

New sections 10A-10C will be inserted into the AUSSAT Act 1984 by clause 6. Proposed section 10A will allow AUSTEL (the national regulator of telecommunications) to direct other telecommunications carriers, where it has received a request from AUSSAT, and is satisfied it is necessary to enable AUSSAT to supply telecommunications services or certain other services, to provide AUSSAT with a telecommunications network or facility. The terms and conditions on which a network or facility is to be made available to AUSSAT will be as agreed between AUSSAT and the other carrier, or where there is disagreement, as decided by AUSTEL.

The effect of proposed section 10B will be to allow AUSSAT to compete with Telecom and OTC in the provision of: any domestic or international public telecommunications infrastructure or network: access to international public telecommunications networks for Australia; and certain telecommunications services (e.g. public switched data services, public switched text and video services, leased circuit services and mobile telephone services). AUSSAT will not be allowed to compete with Telecom in relation to Telecom's exclusive rights under sections 35, 47 and 48 of the Telecommunications Act 1989. Basically, these sections grant Telecom the exclusive right to supply, install and maintain the first telephone and public payphones.

Sections 14 and 15 of the AUSSAT Act 1984, which prevent AUSSAT being converted into a public company and restrict who may hold shares in AUSSAT, will be repealed by clause 7.
References
2. AUSSAT Annual Reports 1985-86 to 1989-90.

For further information, if required, contact the Economics and Commerce Group on 06 2772460.

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

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