



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



THE SENATE
TELECOMMUNICATIONS
COMPETITION BILL 2002

In Committee

SPEECH

Monday, 9 December 2002

BY AUTHORITY OF THE SENATE

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Questioner
Speaker Cherry, Sen John

Source Senate
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Responder
Question No.

Senator CHERRY (Queensland) (1.28 pm)—The Democrats will be supporting these opposition amendments. The legislation extends the ACCC's powers by enabling it to deal with access issues before an investment is made. This is consistent with how it currently deals with access arrangements after the infrastructure is established. However, there is one notable difference between the new anticipatory access arrangements and existing access arrangements. The new anticipatory arrangements require the ACCC to take into account the views of the minister in determining whether or not to grant anticipatory access undertakings or exemptions. These views are intended to be put as a disallowable instrument. I take on board the minister's statement that his policy statements are 'pretty harmless'. I am sure that does not apply to the rest of the minister's portfolio—I am thinking about the possible appointment of a former minister to the ABC board, which would not be described as 'pretty harmless' at all.

Senator Alston—Who? Gary Johns?

Senator CHERRY—I would describe Gary Johns as pretty harmless. There is an argument that such a provision as the ministerial policy statement in this area may lead to the politicisation of the ACCC's consideration of anticipatory access arrangements. The opposition's amendments ensure legislative parity between anticipatory and ordinary undertakings and exemption provisions. The Democrats are staunch defenders of the role of the ACCC and believe that a ministerial direction may impinge on its independence. Whilst we acknowledge that a disallowable instrument does allow for parliamentary scrutiny of a ministerial decision, on balance we feel there is no substantive reason why the current approach for ordinary undertakings should not be followed. As I noted previously, the Democrats welcomed the government's decision not to accept the Productivity Commission's recommendation about the long-term interests of end users or the LTIE test. We believe this remains the most appropriate general framework for the ACCC to consider anticipatory undertakings in.