

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

**SENATE SELECT COMMITTEE ON
MATTERS ARISING FROM PAY TELEVISION
TENDERING PROCESSES**

FIRST REPORT

TERMS OF REFERENCE PART (1) (a)

SEPTEMBER 1993

© Commonwealth of Australia 1993

ISBN 0 642 19648 6 (Set)

0 642 19649 4

This document was prepared from camera-ready copy prepared by the Senate Select Committee on Matters Arising from Pay Television Tendering Processes Secretariat, and printed by the Senate Printing Unit, Parliament House, Canberra.

TERMS OF REFERENCE

- (1) That a select committee, to be known as the Select Committee on Matters Arising from Pay Television Tendering Processes be appointed to inquire into and report upon the following matters:
 - (a) the extent to which the Minister for Transport and Communications discharged his ministerial responsibilities in relation to satellite and MDS tender processes having particular regard to the appropriate contemporary definition of ministerial responsibility and including any different responsibility which might attach to the role of a Minister during the caretaker period of an election; and
 - (b) the adequacy of action taken by the Minister and the Department of Transport and Communications to rectify any problems identified in the reports by Professor Dennis Pearce tabled in the Senate on 20 May 1993 and 26 May 1993 respectively, including but not limited to the following matters:
 - (i) tendering arrangements for price-based licensing allocations;
 - (ii) understanding of administrative and commercial law;
 - (iii) proper management of documents, files and records; and
 - (iv) public service accountability.
- (2)
 - (a) The inquiry into the matters described in paragraph (1)(a) shall commence forthwith for report to the Senate by 2 September 1993; and
 - (b) the inquiry into the matters described in paragraph (1)(b) shall commence on receipt of reports by the Minister for Transport and Communications and the Secretary of the Department of Transport and Communications on those matters, or on 6 September, whichever is the sooner, for report to the Senate by 25 November 1993.

MEMBERSHIP OF THE COMMITTEE

Senator Barney Cooney (Chairman), ALP Victoria

Senator John Tierney (Deputy-Chairman), LP New South Wales

Senator Richard Alston, LP Victoria

Senator Vicki Bourne, AD New South Wales

Senator Stephen Loosley, ALP New South Wales

Senator Jim McKiernan, ALP Western Australia

CONTENTS

	Page
Terms of Reference	iii
Membership of the Committee	v
CHAPTER ONE - Introduction	1
CHAPTER TWO - Ministerial Responsibility	6
CHAPTER THREE - Caretaker Conventions	17
CHAPTER FOUR - Satellite and MDS Tendering Processes	19
DISSENTING REPORT Senators Richard Alston and John Tierney	34
APPENDIX 1 - Individuals and organisations who provided	51
written submissions or material to the Committee	
APPENDIX 2 - Individuals who appeared before the Committee	52
at public hearings	
APPENDIX 3 - Documents referred to in report:	
A - Caretaker Conventions, extract from	54
Cabinet Handbook, June 1991	
B - Guidelines for handling of government	56
business during the election period	
C - Issues for consideration: Satellite and	58
MDS tendering processes	
D - Pay TV: Selection process, unsigned minute	59
by Ms C. Goode, Deputy Secretary (Broadcasting), dated March 1992	
E - Extract from undated Cabinet-in-Confidence	61
brief on Pay TV licence requirements	
F - Letter from Department of Transport and	64
Communications to Attorney-General's Department on Price-based allocation system for allocating subscription broadcasting television licences, dated 20 November 1992	
G - Letter from Attorney-General's Department in	71
response to DOTAC letter of 20 November, dated 23 November 1992	
H - Extract from brief on Industry opportunities	77
from Pay TV by Mr A.J. Shaw, FAS, Broadcasting Policy Division, dated 9 December 1992	