

Labor Senators' Minority Report

Procedural failings of the inquiry

Labor Senators note certain concerns regarding the conduct of this inquiry.

On 20 June 2007, the Senate referred the Bill to the ECITA Committee for inquiry and report by 30 July 2007. Submissions were invited to be received by no later than Friday, 13 July 2007.

The first submission (from the Victorian Privacy Commissioner) was not received until 16 July 2007.

On 16 July 2007, the Committee informed members that submissions were expected from Free TV, Telstra and Optus.

On 17 July 2007, the Committee then received a submission from the Officer of the Privacy Commissioner. On 18 July 2007, submissions were received from the ABC and Free TV Australia.

On 18 July 2007, the Committee scheduled a teleconference for 19 July 2007 at 1pm. At the teleconference on 19 July 2007, it was agreed to put questions on notice to DCITA for its response.

On 25 July 2007, responses to the questions were received from DCITA.

On 26 July 2007, the Committee held a further teleconference at which they discussed the DCITA responses and agreed to hold an inquiry on either of Monday 6 August or Tuesday 7 August 2007.

On Friday 3 August 2007, the date for the inquiry was confirmed as 7 August 2007.

On 3 August 2007, the Committee received a further late submission from Telstra. This report was circulated to some but not all Committee members on 3 August 2007, however, it was not passed on to one Labor Senator until 6 August 2007.

No submission was received from Optus.

The Inquiry was held on 7 August 2007.

On 8 August 2007:

- at 12.11pm the Committee received a copy of the Chair's draft report, which dealt with the datacasting provisions of the Bill, that took up the majority of the inquiry, in 3 pages; and

- at 6.45pm the Labor Senators were informed by the Secretariat that if they did not agree with the Chair's report and they wished to submit a Minority Report it was required immediately.

Labor Senators note their concern at the Government's actions in taking less than a day to consider the exchanges and discussions at the inquiry, to issue the Chair's report and to demand a Minority Report.

There is no cause for such expediency - other than the Government's clear desire to table the Report and have the Bill introduced and passed as soon as possible.

The way in which this process was handled demonstrates again the lengths the Government will go to ensure that their bills are simply rubber stamped by the Committee and passed through Parliament.

Legislative short-comings identified

The submissions received raised 2 key issues in relation to the Bill. These are as follows:

- The datacasting provisions of the bill which amend the *Radiocommunications Act 1992* to give ACMA "flexibility" with respect to spectrum management functions, by providing ACMA with the power to vary the frequencies on which datacasting transmitter licences operate.

There is concern that there will be technical problems related to interference of the proposed Channel B with broadcasters in the Sydney, Gold Coast and Sunshine Coast areas and that the provisions of this Bill will be called into play sooner rather than later and that the Bill does not provide for consultation with stakeholders or a thorough assessment of the impact of any such change in frequency.

- The privacy provisions of the Bill which authorise ACMA to disclose "authorised disclosure information" to Ministers their staff and various state and federal government agencies and to Australian and overseas media and communications regulators. However, the Bill does not adequately address privacy concerns or provide adequate protection of confidential information.

Conclusion

Labor Senators consider that the short time frame between the inquiry and the receipt of the report and the meeting to consider whether to adopt the report did not allow the Committee to consider these issues in detail.

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Senator Stephen Conroy
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