

CHAPTER TWO: THE LEGAL FRAMEWORK

Legal status of External Territories

2.1 Australia has full sovereign powers over all of the External Territories that are part of this inquiry and those territories are all Australian territory in the same sense as any part of the Australian mainland. However, Norfolk Island is a self-governing territory like the mainland territories of the Northern Territory and the Australian Capital Territory, while all of the other External Territories are non self-governing.

2.2 These matters are important in the context of this inquiry as they determine responsibility for the provision and funding of communication services.

2.3 Norfolk, Christmas, Cocos, Ashmore, Cartier and the Coral Sea Islands are all administered by the Department of Transport and Regional Services. The Australian Antarctic Territory and Heard and McDonald Islands are administered by the Department of the Environment and Heritage.

2.4 A discussion of the current legal regimes of each of the External Territories follows. Further details on the history of the Territories' legal regimes can be found in the House of Representatives Standing Committee on Legal and Constitutional Affairs' reports - *Islands in the sun* and *Australian law in Antarctica*¹ and the most recent Commonwealth Grants Commission reports on the External Territories.²

Communications legislation covering the External Territories

2.5 In ordinary usage the term 'Australia' does not include Australia's External Territories (*Acts Interpretation Act 1901*, section 17).

2.6 Generally, all of the External Territories, except Norfolk Island, come under the Commonwealth communications legislation that is also applicable on the mainland. Details of communications legislation covering Norfolk Island are outlined at the end of this section.

1 House of Representatives Standing Committee on Legal and Constitutional Affairs, *Islands in the sun: The legal regimes of Australia's external territories and the Jervis Bay Territory*, Canberra, AGPS, 1991 and House of Representatives Standing Committee on Legal and Constitutional Affairs *Australian law in Antarctica: The report of the second phase of an inquiry into the legal regimes of Australia's External Territories and the Jervis Bay Territory*, Canberra, AGPS, 1992.

2 Commonwealth Grants Commission, *Third report on Cocos (Keeling) Islands inquiry 1993*, Canberra, AGPS, 1993, Commonwealth Grants Commission, *Report on Christmas Island inquiry 1995*, Canberra, AGPS, 1995, and Commonwealth Grants Commission, *Report on Norfolk Island 1997*, Canberra, AGPS, 1997.

Postal

2.7 Under the *Australian Postal Corporation Act 1989* Australia Post has a legal commitment to provide all Australians with a letter service, that reasonably meets the social, industrial and commercial needs of the community, is reasonably accessible to all on an equitable basis, with standard letters carried by ordinary post and uniformly priced from anywhere to anywhere within Australia. The Act also requires Australia Post to operate according to sound commercial practice, be viable and profitable (section 26).

2.8 Under section 8, the Act states 'This Act extends to the External Territories (other than Norfolk Island)'. However, section 18 states that 'Australia Post has power, for or in connection with the performance of its functions to supply postal services (including philatelic and associated services) for Norfolk Island, Christmas Island, Cocos (Keeling) Islands and foreign countries'.

2.9 Australia Post manages the stamp issue programs of Christmas Island and Cocos (Keeling) Islands. Australia Post sells stamps and other philatelic products issued by Norfolk Island but Norfolk Island remains excluded from the operation of the Act.

Broadcasting

2.10 The primary acts which cover broadcasting in the External Territories are:

- the *Broadcasting Services Act 1992* section 10 provides for extension of the Act to all of the External Territories. This Act covers broadcasting services, broadcasting and narrowcasting licences, complaints and appeals to the Australian Broadcasting Authority (ABA)³. The ABA is the regulator for radio and television in Australia. It was established by the *Broadcasting Services Act 1992* and began operations in October 1992. Its role is to plan and control broadcasting through the allocation of broadcasting services bands and licences, to research community attitudes and to set standards for programs, to monitor compliance with the Act and to investigate complaints about broadcasting services. The Authority concerns itself with issues such as program diversity, access and equity, limits on the concentration of ownership, foreign control of the mass media and the fostering of Australian cultural identity. It is a consultative agency between government and the community on broadcasting matters. In addition the ABA is expected to inform government of advances and trends in broadcasting technology.⁴ However, the ABA advised that:

...advice from the Australian Government Solicitor indicates that the ABA is empowered to prepare licence area plans, prepared under s 26 of

3 Note that under the *Broadcasting Services (Transitional Provisions and Consequential Amendments) Act 1992* special provisions apply under section 6 to Remote Aboriginal community services and to their broadcasting licences.

4 ABA web site: www.aba.gov.au/

the Act, for only those External Territories that fall within the definition of 'Australia', ie. Christmas and Cocos Islands, but not [to other territories] unless it is otherwise stated. Therefore, broadcast planning has been done for the Christmas and Cocos Islands, but not for Norfolk Island;⁵

- the *Australian Broadcasting Corporation Act 1983* section 4 provides for Australian Broadcasting Corporation (ABC) services to the External Territories, and
- the *Special Broadcasting Service Act 1991* section 4 similarly allows for Special Broadcasting Service (SBS) service extensions.

2.11 Apart from subsequent amendment acts, the other major, relevant act is the *Radiocommunications Act 1992*. It provides for spectrum and apparatus licensing. This licensing is currently administered by the Australian Communications Authority (ACA), which regulates the telecommunications industry in Australia.⁶ The ACA is a very recent creation, a merger of the Australian Telecommunications Authority (AUSTEL) and the Spectrum Management Authority (SMA). The ACA was established by the *Australian Telecommunications Act 1997* and derives its powers from the *Telecommunications Act 1997* and the *Radio Communications Act 1992*. Its responsibilities include the regulation of the industry and the compliance of the industry with mandatory standards, codes and licence conditions, advice to the community, the industry and the government on telecommunication developments and the facilitation of access to and distribution of the radiofrequency spectrum.

2.12 Section 15 of the Act provides for extension of this Act to all of the External Territories.

2.13 In related legislation, the *Crimes Act 1914* section 3A covers postal and telecommunications offences committed in all the External Territories.

Telecommunications

2.14 Under the *Telecommunications Act 1997* section 10 states that 'this Act extends to (a) the Territory of Christmas Island; and (b) the Territory of Cocos (Keeling) Islands; and (c) such other External Territories (if any) as are prescribed'.

2.15 Further on in Part 7 relating to the Universal Service Regime section 139 on the Special meaning of Australia states that:

(1) 'A reference in this Part to **Australia** includes a reference to:

5 ABA, *Submissions*, p. S66.

6 The ACA is not the sole regulator. The Australian Competition and Consumer Commission (ACCC), the Telecommunications Ombudsman, the Australian Communications Industry Forum, the Consumers Telecommunications Network, the Australian Telecommunications Users Group as well as industry associations and the Department of Communications and the Arts also have regulatory or monitoring functions.

- (a) the Territory of Christmas Island;
 - (b) the Territory of Cocos (Keeling) Islands, and
 - (c) an External Territory specified in the regulations;
- (2) The definition of **Australia** in section 7 does not apply to this part'.
(Section 7 defines Australia.).

2.16 Norfolk Island does not specifically fall under the Act unless so prescribed. The Australian Antarctic Territories are not part of Australia under this Act.

2.17 However, Telstra advised that it '...provides the international telecommunications network link for the Norfolk Island Administration allowing high quality communications between Norfolk Island and the Australian mainland and Norfolk Island and other countries.'⁷ This external part of Norfolk Island telecommunications services therefore comes under the Act.

2.18 Under section 226 of the *Telecommunications Act 1997* residents in remote areas can receive a discount on their telephone bills in a scheme that equates comparable benefits of untimed local calls to essential business and community services. These customers currently pay a timed 'pastoral rate' of 25 cents per 4.5 minutes, for many call types. In 1998, they will receive a rebate of \$160 a year against their bill.

2.19 Part 9 of the Act establishes the customer service guarantee which obliges carriers to comply with performance standards for carriage service providers and to pay specified damages to customers where these standards are not met. The ACA has set a performance standard which sets minimum levels of customer service (based on population size and proximity to cabling or other infrastructure) for the standard telephone service to be complied with by carriage service providers. The standards for Christmas and the Cocos Islands are maximum connections times of either 40 working days or six months depending on whether they are near cabling or other infrastructure (ie the same as for other remote areas of Australia).⁸

2.20 Under Part 10 of the Telecommunications Act all licensed carriers and eligible service providers are required to be members of the Telecommunications Industry Ombudsman (TIO) Scheme. The TIO advised that as the Telecommunications Act does not apply to Norfolk Island unless that territory is prescribed, Norfolk Telecom (the local telecommunications provider) is not required to be a member of the TIO scheme and the Ombudsman has no jurisdiction to deal with customer complaints. However, the TIO scheme applies to long distance services (ie STD and IDD) which are provided by Telstra. Regarding Christmas and Cocos Islands, the TIO said 'I am not familiar with the situation concerning the provision of carriage services on Christmas Island or on the Cocos (Keeling) Islands.'⁹

7 Telstra, *Submissions*, p. S104.

8 Department of Communications, Information Technology and the Arts, *Submissions*, pp. S192-S193.

9 Telecommunications Industry Ombudsman, *Submissions*, p. S126A.

Internet and multimedia

2.21 There is currently no Commonwealth legislation covering on-line services such as the Internet.

Community service obligations in communications

2.22 In the communications sector in Australia there are community service obligations (CSOs) set by the Commonwealth Government in both the postal and telecommunications area. These social obligations reflect enduring views on social policy in their respective sectors. The services provided are often unprofitable and cross-subsidised by profitable services. In the past CSOs generally were provided by monopoly government businesses to certain sections of the community on a non-commercial basis. The introduction of competition to many of the organisations providing CSOs has introduced changes regarding the options for funding and delivery of CSOs.

Postal CSO

2.23 Australia Post currently is required to meet two social obligations, that is, to provide a universal letter service and to apply a uniform rate of postage.

2.24 The postal service social objectives are contained in section 27 of the *Australian Postal Corporation Act 1989*. Section 27 requires Australia Post to deliver standard sized letters to all but the most remote parts of Australia, even if it would not choose to do so under normal commercial circumstances. This obligation is known as Australia Post's letter delivery Universal Service Obligation (USO). The USO consists of the following three components:

- 1) Australia Post must provide a letter service to almost all parts of Australia at a single uniform price;
- 2) it must make the letter service reasonably accessible to all Australians, and
- 3) it must meet reasonable performance standards in the delivery of letters.

2.25 Recent work by the National Competition Council (NCC) revealed that the unprofitable part of the letter delivery service consists of mail paths in delivery: to and from some rural and remote areas of Australia; some city to city delivery services; and some international mail. Each of these areas represents about one third of the total CSO costs.¹⁰

2.26 The postal USO applies to all External Territories except Norfolk Island, even though Australia Post supplies some postal services, including philatelic and associated services to the island. However, the USO covers services to and from Norfolk Island and the mainland.

10 National Competition Council, *Review of the Australian Postal Corporation Act: Volume one*, Canberra, AGPS, February 1998, p. 49.

2.27 On 19 May 1997, following majority State/Territory/Commonwealth Government agreement, the Treasurer requested the NCC review the *Australian Postal Corporation Act 1989*.

2.28 The NCC's review revealed that there is confusion in the community about the scope of the USO. Additional USO's considered by the NCC included: a requirement for all post offices to provide financial services; a requirement to deliver parcels Australia-wide; and a requirement to keep post offices open.¹¹

2.29 The NCC's final report¹² was released in February 1998 and recommended some major changes to Australia Post's USOs/CSOs.

2.30 On 16 July 1998, in response to the NCC recommendations, the Government announced the following policy for Australia Post which impacts on CSOs/USOs:

- the standard letter rate would remain frozen at 45 cents until at least 2003;
- Australia Post would be retained in full public ownership;
- no post office or mail centre in regional Australia would close as a result of the package;
- business mail would not be open to competition, but
- the scope for competition in the postal market would be enhanced from 1 July 2000 (including all international mail open to competition from 1 July 2000 with safeguards to prevent this being used to circumvent Australia Post's domestic reserved service).¹³

2.31 The Government currently is considering a new Service Charter for Australia Post that will give customers information on the standards of service expected from Australia Post and the avenues for complaint if those standards are not met.¹⁴

Telcommunications USO

2.32 In the telecommunications area the policy is that everyone, no matter where they live or conduct business, should have reasonable access to a basic telephone service.

2.33 The basic service includes access to a standard telephone service, payphones, and any other carriage services which are prescribed on a reasonable and equitable basis. The standard telephone service includes consumers having access to an efficient and reliable telephone service, a good voice reception, responsive fault repair, accurate and itemised billing arrangements and a basic level of service. In

11 National Competition Council, op. cit., pp. 46-47.

12 Ibid., p. 134.

13 Senator the Hon Richard Alston, then Minister for Communications and the Arts, *Media release: Government delivers better postal services*, 16 July 1998, 2p.

14 Department of Communications, Information Technology and the Arts, *Submissions*, p. S196.

addition, the Government has the power to add additional services to the standard telephone service if to do so is of benefit to the community.

2.34 This CSO is described as a USO and is set out in section 139 of the *Telecommunications Act 1997*.

2.35 While in the past Telecom was a monopoly, that company automatically provided the USO. Now that there is competition in the provision of telecommunication services, the Minister for Communications, Information Technology and the Arts has the responsibility to nominate a carrier to fulfil the obligation to provide the USO. Telstra is the carrier that is currently nominated to provide the standard telephone service to unprofitable areas of Australia. In that capacity Telstra is described as the national universal service provider.

2.36 The Telecommunications Act also includes a requirement that Telstra prepare a Universal Service Plan.¹⁵ That plan was approved by the Minister on 18 May 1998 and offered significant improvements in phone connection times for Australians living in remote areas. These new commitments will be included in the Customer Service Guarantee, which provides financial compensation to consumers whose telephone carrier fails to meet minimum standards in relation to installation, repairs and service standards. It should be noted that it is Telstra's practice to provide remote customers with access, where appropriate, to temporary facilities such as MiniSat connections pending installation of more permanent equipment.

2.37 Specifically, the Australian Communications Authority has been asked to review Telstra's universal service plan by 30 March 1999. They will consider the provision of interim services to customers who have to wait more than 12 months for a connection, the provision of pay phone services and fault repair times.

In regional and remote areas where access is difficult [where there is no existing available infrastructure and with populations of below 200], when people apply for a connection, they will now be able to get an interim connection via the satellite. ... For the first three months the customer would pay the standard satellite service rates. After that three month period the customer would pay the standard rates which would apply to a fixed service had it been installed – that is the normal STD and local call charge rates –and the carrier would effectively absorb the difference between those costs.¹⁶

2.38 The ACA has also reviewed, strengthened and clarified the customer's rights under the customer service guarantee. It reported to the Minister in December 1998. Up to May 1998 the connection time allowable was 27 months for remote areas. Now after 12 months waiting for a connection the customer is entitled to compensation on a

15 *Telstra's universal service plan*: Approved by the Hon Richard Alston, then Minister for Communications and the Arts in May 1998. This is the document which specifies how Telstra proposes to comply with its universal service obligation.

16 Department of Communications, Information Technology and the Arts, *Transcripts*, pp. 21-22.

daily basis on their monthly rental: \$11.65 for the first five days and \$40 a day after that.¹⁷

2.39 As previously discussed in relation to the External Territories, under section 139 of the Telecommunications Act the USOs apply only to Christmas and Cocos Islands. Those islands have been declared Net Cost Areas by the ACA. This means that they are potentially loss making areas so the Universal Service Provider (Telstra) may lodge a claim for the loss incurred in supplying services to those areas as part of the USO scheme.

The financial impact of the USO on the Universal Service Provider

2.40 Telstra, as the Universal Service Provider, can claim compensation for the losses incurred in the supply of the USO. At the time of the hearings for this inquiry, the current claim was still being assessed and due for completion in March 1999. The last payment, for 1996/97, was \$251.3 million. Although the Australian Communications Authority was not able to reveal the amount of the current claim, newspapers reported that it was \$1.8 billion.¹⁸ The compensation was paid on a yearly basis but a year after they were incurred. Once assessed, Telstra can expect to be refunded 15 per cent of the value of the USO. Telstra is responsible for 85 per cent of the cost of the USO. The Department of Communications explained that:

There is a process of those costs being shared across the industry as a proportion essentially of their market share.¹⁹

2.41 The telecommunications USO is not static, and the Telecommunications Act contains a requirement that prior to 30 September 1998, the Minister consider adding a carriage service providing Integrated Service Digital Network (ISDN) comparable digital data capability to the USO.²⁰ On 6 May 1998 the then Minister for Communications and the Arts announced that he had asked the ACA to conduct a review into whether or not the USO should be upgraded to digital data capability and report to the Minister by 15 August 1998.²¹ The review was published on 18 August 1998. Details of its findings and the initial Government responses to it are set out in Chapter 7.

Competition policy

2.42 The Committee considered whether competition policy offered an alternative to or an addition to the Universal Service Obligation as a means of providing services

17 Department of Communications, Information Technology and the Arts, *Transcripts*, p. 22.

18 *The Canberra Times*, 4 March 1999.

19 Department of Communications, Information Technology and the Arts, *Transcripts*, p. 30.

20 ISDN is an end-to-end data communication system which uses optic fibres, coaxial cables or microwave links to transmit data. Wideband ISDN transmits data at 64kbps. This high data capability enables an ISDN service to support more voice, data and facsimile applications, faster data applications or more data intensive applications (such as digital imaging or video conferencing) than can be supported by the standard telephone service.

21 Senator the Hon Richard Alston, then Minister for Communications and the Arts, *Media release: Digital data review*. 6 May 1998. p.2.

to the External Territories. The Department of Communications, Information Technology and the Arts explained that all carriers and service providers were subject to the access and interconnection regime under the Trade Practices Act. Under the access regime, the Australian Competition and Consumer Commission (ACCC) would be able to declare as subject to access obligations any services which would enable competing operators also to supply their services over other carriers' networks. Before a declaration can be made the ACCC must conduct a public inquiry. It can do so at the request of the competitor. Before making a declaration, however, the ACCC was required to consider a number of factors: whether the declaration would promote competition; the impact the declaration would have on efficient network investment; and the impact on efficient network operation.²²

2.43 No request for an inquiry into telecommunications access has been made in relation to the External Territories and the smallness of the populations in the Islands would appear to militate against operators seeking access to the markets.²³ However, investigations being conducted into the provision of commercial satellite services to remote and rural areas of Australia might benefit the External Territories simply because of the nature of satellite coverage.

In relation to satellite services, given the breadth of the footprints of the satellites, that obviously reduces substantially the cost differences between supplying services in different areas and that does provide an opportunity.²⁴

2.44 However, in response to questions from the Committee, the ACCC expressed the view that the Commission did not have jurisdiction over complaints originating in Norfolk Island in relation to telecommunications. It explained that the *Trade Practices Act 1974* was limited to 'conduct which affects markets within Australia (S4E). Section 5 of the Act extends the application of parts IV, IVA and V to encompass conduct engaged in outside Australia by bodies corporate incorporated or carrying on business within Australia, however it has been held that for the Act to apply there must be some effect within Australia.'²⁵ As with the Telecommunications Act, the definition of Australia for the purpose of the Act does not include Norfolk Island.

International agreements

2.45 Communications is increasingly a transnational and privately controlled activity, outside domestic regulation. Some international communication services are offered in Australia and international arrangements and agreements affect the provision of communication services within Australia.

22 Department of Communications, Information Technology and the Arts, *Transcripts*, pp. 34-35.

23 This appears to be illustrated by the preselection question in relation to OPTUS.

24 Department of Communications, Information Technology and the Arts, *Transcripts*, p. 36.

25 Exhibit No. 31, Correspondence from the ACCC to the Chair of the Committee.

2.46 In the postal area an international convention, administered by the Universal Postal Union (UPU), imposes a system known as terminal dues for the cost of delivering incoming international mail as well as imposing technical standards on mail authorities. UPU member countries must deliver international items in the same way as domestic mail or face loss of service. Private companies are now moving more and more mail around the world and, along with re-mail services, may offer postage discounts to consumers.

2.47 Technically Australians have had the option of accessing foreign satellite television services in Australia for many years but the large receiving dishes required and cost of decoding equipment have dissuaded most people from using such services. However, this situation is changing as smaller dishes can receive the video signals from more satellites. Such services are outside the control of the *Broadcasting Services Act 1992* but the *Radiocommunications Act 1992* licenses ground control stations. Some pay television industry observers have noted that it appears to be possible for new entrants to avoid both Acts and operate under class or service licences.

2.48 Until recently, individual countries generally have banned subscription satellite broadcasts on their territory. It was only in July 1997 that Australia allowed those services, although free broadcasts were available to those individuals possessing the necessary ground receivers.

2.49 In the telecommunications area international treaties and agreements apply to satellite services. The international telecommunications network comprises a system of country-to-country links that are jointly operated by the international carriers of each country. Australian carriers, Telstra and Optus, both provide half circuits from Australia's gateway switches to the mid points of the international circuits via satellite or undersea cable. Owners of the Intelsat, Inmarsat satellites or other cable systems contribute capital in proportion to their relative use of the investment and receive a return while also paying usage charges. Inmarsat and Intelsat are themselves multilateral cooperatives existing under signatory agreements. Cables must also comply with international sea regulations and economic zones while satellites require pre-registration in order to use a particular location and frequency spectrum.

2.50 Carriers determine the price of international telephone calls through the international accounting rate system. That system is a multilateral process set down in the International Telecommunications Convention, associated regulations and by the International Telecommunications Union (ITU). The international accounting rate system is often identified as a major obstacle to reducing international call prices since the rates often far exceed the resource cost, although there are economic arguments to the contrary. Service providers offer some discounting to consumers by reselling purchased line capacity that carriers provide. The World Trade Agreement on Basic Telecommunications may help improve market access and lower prices.

2.51 In direct contrast to all of the above arrangements the Internet has successfully operated and grown in an environment of free cross-border data traffic. The only international agreements for the Internet sector are agreed ITU technical standards.

Federal funding and programs

2.52 The Commonwealth Government provides funding for many of the communications services provided for the External Territories. It provides General Revenue Grants to the States and the Northern Territory to offset costs of providing services to remote areas. Limited data is available on funding. Some indication of Commonwealth expenditure (including departmental administrative and staffing costs) for all of the activities associated with regional groupings of the External Territories is provided at Table 2.1. The most recent data available was for 1997-98.

Table 2.1 Financial summary of Commonwealth expenditure on the External Territories 1997-98

External Territory	Actual total outlays 1997-98
Indian Ocean Territories	\$36 million
Norfolk Island	\$3.5 million
Australian Antarctic Territories	\$61 million

Data Source: Department of the Transport and Regional Development annual report 1997-98. Canberra, Canprint, 1998, pp. 117 and 118.

Environment Australia annual report 1997-98, Union Offset, 1998, p. 80.

These figures are rounded to the nearest million.

NB The figure for Norfolk Island is extrapolated from an amount for Norfolk Island and other territories which was \$34.340 million in 1997-98. The majority of this outlay (approximately \$30.8 million) was for the 'other territories', notably payments to the ACT and to the Katherine Region Redevelopment Program. (See Department of Transport and Regional Services Annual report, p. 118.) The amount left, approximately \$3.5 million, is consistent with the figure in the Commonwealth Grants Commission Report on Norfolk Island for the total Commonwealth responsibility for the Island.. (See paragraphs 2.54, 2.55 below.)

Norfolk Island

2.53 Most of the public sector activity on Norfolk Island is primarily the direct responsibility of the Norfolk Island Government and is principally funded from revenues raised by that Government.

2.54 The Commonwealth Grants Commission in its 1997 report on Norfolk Island estimated that the Commonwealth spent an average of \$3.5 million a year on both recurrent and capital expenditure on Norfolk Island over the three years to 1995-96. Of that, an average of \$297,000 was spent by Telstra and \$20,000 by IPS Radio & Space Services. Within the \$3.5 million, an average of \$980 000 a year was spent in support of matters that are the direct responsibility of the Norfolk Island Government. In addition, the Commonwealth undertakes a range of activities that are of direct

benefit to the Island, although not to its economy (eg emergency evacuations). These expenditures average just under \$500,000 a year.²⁶

2.55 On the revenue side, the Grants Commission reported that the Commonwealth raises no taxes direct from Norfolk Island. However, income tax and indirect taxes are paid by some people giving Norfolk Island as their postal address; some revenue is gained from fishing in the Exclusive Economic Zone; income tax is paid on the earnings of companies exporting to, or operating on Norfolk Island; and some income is earned from Telstra charges to Norfolk Island for telecommunications.²⁷

2.56 The Commonwealth Grants Commission also found that:

...the Norfolk Island community has a much greater capacity to raise revenue than it is currently using...

...in a general sense, there was a tendency to try to raise as much revenue from outside the island, or from activities associated with island to mainland communication. [particularly through customs and excise duty imposed by the Norfolk Island Government and]...

...They [the Norfolk Island Government] associated the level of tax revenue with a philosophy about the level of services that they were prepared to fund...

Certainly, the Norfolk Island government, according to our assessments have revenue raising capacity that they are not using. [ie]...capacity relative to the mainland...²⁸

...the overall conclusion was that the Norfolk community could pay about \$6.0 million more tax (about a 60 per cent increase) without being taxed at higher rates than those existing on the mainland.²⁹

Christmas and Cocos (Keeling) Islands

2.57 All Government expenditure on Christmas Island, other than that resulting from funds raised by the Shire, is funded by the Commonwealth budget process. The Commonwealth Grants Commission's 1995 report on Christmas Island estimated that the Commonwealth spent \$47.3 million (both recurrent and capital expenditure) on Christmas Island in 1994-95 of which \$1.7 million was spent on communications.³⁰

2.58 Similar funding arrangements exist for the Cocos Islands as for Christmas Island, with Commonwealth taxes on the Cocos Islands being phased in since July 1991.

26 Commonwealth Grants Commission, 1997, op. cit., pp. 70-71.

27 Commonwealth Grants Commission, 1997, op. cit., p. 69.

28 Commonwealth Grants Commission, *Transcripts*, pp. 191-192.

29 Commonwealth Grants Commission, *Submissions*, p. S215.

30 Commonwealth Grants Commission, 1995, op. cit., pp. 23-24.

Australian Antarctic Territories

2.59 In relation to the Australian Antarctic Territories (AAT), the Australian Antarctic Division (AAD) stated that '...Quite a deal of the Antarctic Division's funds are spent on telecommunications each year looking after equipment which is not practical for the carrier to get to because of the unique location and geographic difficulties.³¹

Regional Telecommunications Infrastructure Fund (RTIF)

2.60 On 5 December 1996 the Minister for the Communications and the Arts announced³² the establishment of a \$250 million Regional Telecommunications Infrastructure Fund (RTIF) to improve the quality of telecommunications services and enhance employment opportunities in regional areas. Funds were available as a result of the initial one-third sale of Telstra. The funds were allocated so that each State received a share of the funds in direct relationship to the share of that State's population which is found outside that State's capital city. A separate \$20 million component of the funds has been added for the Northern Territory and the Australian Capital Territory. Within these allocations, funds are allocated on the basis of an assessment of applications received from the communities. The RTIF was initially not made available to the External Territories. However, suggestions were made to this inquiry that the fund should be extended to the External Territories.³³

2.61 On 11 July 1998 the then Minister for Communications and the Arts announced³⁴ the expansion of the scheme including a special \$20 million allocation to meet the telecommunications needs of remote and isolated communities. Communities included those on the Cocos (Keeling) group, and on Christmas and Norfolk Islands and in the AAT. This funding will be allocated at the discretion of the independent RTIF Board. The additional money was to be funded from the proceeds of the sale of the remaining two thirds of Telstra and made available from the 1999-2000 financial year.

2.62 The Department of Communications, Information Technology and the Arts also advised that there may be alternative funding programs to meet any possible requirements of the Island Territories. For example, it said the Norfolk Island Administration is understood to have sought assistance from the Centenary of Federation program to assist with a communications consultancy.³⁵

31 Department of the Environment and Heritage, *Transcripts*, pp. 182-183.

32 Senator the Hon Richard Alston, then Minister for Communications and the Arts, *Media release: Government announces Regional Telecommunications Infrastructure Fund*, 5 December 1996, p.2.

33 Norfolk Island Government, *Transcripts*, pp. 71-72; OPTUS, *Submissions*, p. S135; and Department of Transport and Regional Services, *Submissions*, pp. 174-175.

34 Senator the Hon Richard Alston, *Media release: Government expands funding for Networking the Nation*, 11 July 1998, p.2.

35 Department of Communications, Information Technology and the Arts, *Submissions*, p. S190.