



Telstra (Transition to Full Private Ownership) Bill 2005

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Telstra (Transition to Full Private Ownership) Bill 2005

Date Introduced: 8 September 2005

House: Senate

Portfolio: Communications Information Technology and the Arts

Commencement: Sections 1 to 5 and Schedule 1, Part 1 commence on the day that the Act receives Royal Assent. Schedule 1, Part 2 commences on the day declared as the 'designated day' under section 3. Schedule 1, Part 3 commences on the day declared as the '85% sale day' under section 4.

Purpose

The Telstra (Transition to Full Private Ownership) Bill 2005 ('Bill') introduces amendments to the *Telstra Corporation Act 1991* ('*Telstra Act*') to remove the requirement that the Commonwealth retain a minimum 50.1 per cent equity in Telstra. This will enable, but not require, the sale of the Commonwealth's remaining interests in Telstra.

The Bill also makes the necessary consequential and transitional amendments to legislation to recognise the Commonwealth's reduced equity in Telstra.

Background

This Bill is largely derived from the Telstra (Transition to Full Private Ownership) Bill 2003 ('2003 Bill'). The [Digest](#) for the 2003 Bill provides a background to the ongoing debate on the privatisation of Telstra.¹

This is one of 5 interdependent Bills related to the sale of the Commonwealth's interests in Telstra. Other Bills deal with;

- the separation of Telstra business units and new regulatory settings (Telecommunications Legislation Amendment (Competition and Consumer Issues) Bill 2005). A digest for this Bill will be available soon.²
- the 'Communications Fund' proposed to be set aside from the sale proceeds to provide for regional services (Telecommunications Legislation Amendment (Future Proofing and Other Measures) Bill 2005). A digest for the Bill is available.³
- appropriation of funds to provide such services independently of the Fund (Appropriation (Regional Telecommunications Services) Bill 2005–06). A digest for the Bill is available.⁴

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- other measures concerning the funding of industry codes (Telecommunications (Carrier Licence Charges) Amendment (Industry Plans and Consumer Codes) Bill 2005). A digest for the Bill is available.⁵

The Bill has three main elements:

- amendments which take effect from the day of Royal Assent, being those provisions required to put in place the scheme to sell the Commonwealth's shares in Telstra
- amendments which take effect from the day on which it is declared by the Minister that the majority of shares in Telstra are held by a person other than the Commonwealth (the 'designated day'). In broad terms, the purpose of the amendments is to reflect in other legislation that Telstra is no longer a Commonwealth authority or entity once the Commonwealth no longer holds the majority share in the company, and
- amendments which take effect from the day on which it is declared by the Minister that 85% of shares in Telstra are held by a person other than the Commonwealth. In broad terms, on this day, Telstra's reporting obligations end as does the Minister's power to give directions to Telstra and the Minister's power to direct Telstra not to engage in equity dilution

The speed with which the Government has introduced the Bills and scheduled debates has been criticised by other Parliamentary parties.⁶ In response to these criticisms the Prime Minister has said:⁷

this is an issue that has been trawled over, debated, inquired into, looked at, analysed, and pulled apart by different committees and different groups over the years. I mean people who say that we have never inquired into Telstra before are ignoring a number of years of different Senate inquiries and the procedure that the Senate is adopting in relation to this particular Bill is exactly the same as the Senate has adopted in relation to a host of other pieces of legislation that complaint might have substance if this issue had not been on the public agenda for years and years. It has been and therefore the attention it's been given is entirely appropriate.

While it true that the sale of Telstra has been a part this Government's election platform in at least four elections, a critically important aspect of the proposal—the regulatory setting in which Telstra would operate—was revealed for the first time when these Bills were introduced on 7 and 8 September 2005. In their execution, these proposals for regulatory reform—particularly for the separation of Telstra's business units—differ from previous proposals. These proposals did not find favour amongst those who made representations to the Senate Inquiry which was convened eighteen hours after these Bills were introduced.⁸ These matters are dealt with in the Digest for the Telecommunications Legislation Amendment (Competition and Consumer Issues) Bill 2005.

In recognition of the short time between introduction and debate, this Bills Digest draws on the Digest for the 2003 Bill and highlights some of the key differences in the current Bill.

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Basis of policy commitment

In her Second Reading Speech for this Bill and the Telecommunications Legislation Amendment (Competition and Consumer Issues) Bill 2005, Senator Helen Coonan, stated that:⁹

this legislation forms a broad, integrated package that is designed to:

- provide an appropriate framework for a Telstra sale scheme;
- provide a settled regulatory framework that promotes an open, competitive telecommunications market;
- address concerns, particularly of rural and regional Australia about the adequacy of telecommunications services now, and into the future; and
- reinforce the universal service obligation, digital data service obligation and the customer service guarantee.

The Government's long expressed reason for selling Telstra is that its role as regulator and shareholder conflict.¹⁰ The conflict arises because the Commonwealth's position as the majority shareholder could operate to compromise its role in regulating to provide efficient, competitive telecommunications markets.

As *shareholder*, the Commonwealth's immediate interests lie in increasing, or at least preserving, the value of its shareholding. Some of Telstra's derives from its significant (in some cases, monopoly) power. The maintenance of this monopoly power, however, is the thing that, as *regulator*, it seeks to avoid. Rather, it seeks increase competition (which implicitly means reducing the monopoly power of Telstra) with the object of increasing the long term interests of *end users*.¹¹ Put simply, regulating Telstra in the interests of end users may not be in the interests of Telstra shareholders and acting in the interests of Telstra shareholders (of which the Commonwealth is the largest) may disadvantage end users.

Much of the support for the Commonwealth keeping its present interest in Telstra appears to be either ideological (as, commonly, is support for the sale) or based on a view that, if the Commonwealth divested its interest, Telstra might abandon some of its social obligations. Whether or not that is likely to be so, the premises underpinning these arguments bear examination.

The Commonwealth has 3 sources of formal power over Telstra:

- Its majority voting power at a general meeting, by virtue of its 51.8% shareholding
- Its power under the subsection 9(1) of the *Telstra Act* to 'give to Telstra such written directions in relation to the exercise of the powers of Telstra as appear to the Minister to be necessary in the public interest'

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- Its legislative power to regulate telecommunications generally

Each of these powers is subject to different limitations which mean that the scope of the powers may differ. For instance;

- the exercise of majority voting power may be constrained by the duties of the directors under the Corporations Act to act in the interests of the company and by certain rights of minority shareholders.
- The Minister's separate statutory power under section 9 of the *Telstra Act* to is also limited because Minister 'must not must not give a direction ...in relation to the amounts to be charged for work done, or services, goods or information supplied, by Telstra'.¹²
- The power to legislate is subject to constitutional limitations.

While it is beyond the scope of this digest to compare the scope of these powers in detail, it is clear that only the first of these sources of power depends on the Commonwealth's majority ownership. In the absence of majority ownership, the Commonwealth retains two sources of control over Telstra.

The *legislative power* is, of course, already widely used to force particular outcomes in the public interest: examples include the Universal Service Obligation, the Digital Data Service Obligation and the Customer Service Guarantee. This power clearly does not depend on majority ownership. The *power to direct* Telstra under section 9 of the *Telstra Act*, although not much used, will also, under this Bill, survive until such time as more than 85% of the shares are in not in Commonwealth ownership.¹³

This is not to say that the power that comes from majority ownership is entirely duplicated by other powers. It is merely to lay open to scrutiny the assumptions that appear to exist about the significance of the Commonwealth's ownership of Telstra shares; that it is entitled to use its voting power to control the investment and operational decisions of the company; that it would necessarily do so for social ends rather to further the interests of shareholders (including itself) and that (even if these propositions were true) the same results could not be achieved more transparently by direction, regulation and targeted spending. These assumptions are not necessarily true.

Notwithstanding the above remarks, the Commonwealth's majority ownership may, nonetheless, have unquantifiable effects on the corporate culture of Telstra.

The focus in much of the public debate on ownership, while important to many, has shadowed debate on a critical issue; the regulatory setting for a privately owned Telstra. These issues have tended to become confused in this debate. The regulatory settings and manner the Government proposes to change them, is dealt with in the digest for the Telecommunications Legislation Amendment (Competition and Consumer Issues) Bill 2005

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Policy position of other parties

The Labor Party

The Labor Party opposes the sale of Telstra, believing that the best way to guarantee regional and rural telecommunications service is for the Commonwealth to retain a majority equity in Telstra.¹⁴

The Democrats

The Democrats oppose the full sale of Telstra, and do not see that the Commonwealth's ownership of Telstra and regulation of the telecommunications industry as incompatible or illogical.¹⁵

The Greens

The Greens are on record as opposing the privatisation of Telstra.¹⁶ At the time the Bill was introduced into the Senate, Senator Brown strongly criticised the four policy objectives of the Government in introducing the legislation.¹⁷

The Nationals

With the Coalition Government holding 39 of the 76 seats in the Senate, the vote of newly elected Senator Barnaby Joyce has been a major focus in the debate on the sale of Telstra. In late August, prior to the introduction of the legislative package to sell Telstra, Senator Joyce was reported as saying that he supported the sale of Telstra 'on the condition that tougher safeguards were introduced to guarantee the quality of service and investment in basic services.'¹⁸

Following the introduction of the legislative package, and the one day Senate Committee hearing, Senator Joyce was reported as saying he's not comfortable with the legislation and would need more time to consider the sale.¹⁹

Position of Other significant interest groups

Telstra

In evidence to the Senate Environment, Communications, Information Technology and the Arts Legislation Committee, Ms Kate McKenzie, Telstra's Managing Director, Regulatory, stated:²⁰

I think, like others before us, we are still going through the details of the legislation. I think the company has made public its position that it supports the privatisation of the company. Obviously, as we have just discussed, we have some concerns about some of the provisions of the other bills.

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National Farmers' Federation

Mr Peter Corish, President of the National Farmers Federation in evidence to the Senate Environment, Communications, Information Technology and the Arts Legislation Committee said:²¹

We are not taking a position on the sale until we see evidence that those problems are going to be addressed. We have not changed our position on that now for two years. We have continued to say it and we will continue to say it. We now have the opportunity to view the legislation, but we do not have a lot of time to do it. We will do that over the next couple of days. A policy council meeting of the NFF is to be held on Monday night and we will be making some significant decisions then about what our position is.

Comment

Timing of the sale

The Bill removes the requirement that the Commonwealth's interest in Telstra must not drop below 50.1 per cent. It is silent about the timing of any divestiture of the Commonwealth's interest. The *Explanatory Memorandum* states 'that the timing of any sale or sales will, of course, depend on prevailing market conditions'.²²

Sale-scheme hybrid securities

Like the 2003 Bill, this Bill uses the concept of 'sale-scheme hybrid securities' for the sale of Telstra. A hybrid security is one that combines two or more different financial instruments.

Essentially, the Bill proposes a scheme under which ordinary Telstra shares are transferred to different categories of security issuers, which will issue hybrid securities instead of ordinary Telstra shares.

Category A hybrid security issuers are the wholly Government owned issuers. Category B hybrid security issuers are other non-wholly Government owned issuers as designated by the Minister for Finance.

The purpose of the sale-scheme hybrid securities is to provide flexibility to the sale scheme.²³

Reaffirmation of the universal service obligation, the digital data service obligation and the customer service guarantee

The Bill provides that on the day that the Minister declares that a person other than the Commonwealth holds the majority of shares in Telstra, a 'reaffirmation' by Parliament to

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the universal service obligation, the digital data service obligation and the customer service guarantee will be inserted into the *Telstra Act*.

It is unclear what purpose, if any, the insertion of this novel provision into the *Telstra Act* serves.

Shares taken to be invested in the Communication and Future Funds are held by a person other than the Commonwealth

The operative provisions of the Bill rely on a declaration by the Minister that a certain percentage of shares in Telstra are held by persons other than the Commonwealth.

For the purposes of determining the quantum of the Commonwealth's equity in Telstra, shares in Telstra which are 'invested' in either the Communications and Future Funds are held by a person other than the Commonwealth.

Effectively, this means that the Government's moves to fully privatise Telstra are not delayed by the fact that shares are 'invested' in the Communications or Future Funds.

Disallowance of Legislative Instruments

A number of provisions in the Bill relate to declarations or determinations by the Minister. These declarations and determinations are for the most part legislative instruments for the purposes of the *Legislative Instruments Act 2003*.

In some cases, these legislative instruments are specifically exempted from the provisions in section 42 of the *Legislative Instruments Act 2003* which provides for the disallowance of legislative instruments by Parliament.

Exempting legislative instruments from disallowance does undermine the role of the Parliament in scrutinising these instruments. However, if the disallowance provisions were not exempted then the Parliament could interfere with the sale late in the process, particularly after the majority of equity had passed from control of the Commonwealth.

Amendments taking effect when 85% of Telstra is held by persons other than the Commonwealth

Once 85 per cent of Telstra shares are held by persons other than the Commonwealth, the Bill provides for repeal of:

- Telstra's reporting obligations to the Minister under Division 3 Part 2 of the *Telstra Act*
- the Minister of Finance's authority to give directions to Telstra not to dilute the Commonwealth's equity in Telstra, and

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- the provisions in the *Telstra Act* giving authority to the Minister to give directions to Telstra.

The repeal of the Minister's authority to give directions to Telstra was not contained in the 2003 Bill.

Main Provisions

Summary

Clauses 3 and 4 of the Bill define two future points in time:

- the 'designated day' - the first day on which a person other than the Commonwealth holds a majority of shares in Telstra, and
- the '85% sale day' - the first day on which a person other than the Commonwealth holds 85% of the shares in Telstra.

The key aspect of **Part 1 of Schedule 1** is the removal of the constraint on the Commonwealth retaining a 50.1 per cent majority in Telstra. The provisions in Part 1 also put in place the necessary amendments to the *Telstra Act* to establish the scheme by which Telstra shares (or 'sale-scheme hybrid securities') can be sold.

The designated day and the 85% sale day are trigger dates for the amendments to various legislation set out in **Parts 2 and 3 of Schedule 1** which are made necessary by the privatisation of Telstra. The legislation amended by Schedules 2 and 3 relate to:

- employment conditions for Telstra employees
- review of administrative decisions by Telstra
- freedom of information requests to Telstra, and
- the role of the Ombudsman with respect to Telstra.

Details of the provisions of the Bill

Clauses 3 and 4

Clause 3(1) provides for the Minister to make a declaration that a particular day is the 'designated day'. The designated day is defined as the first day following commencement of Part 1 of Schedule 1 of the Act on which, in the opinion of the Minister, the majority of voting shares in Telstra are held by person(s) other than the Commonwealth.

Clause 3(3) stipulates that, for the purposes of section 3, where a share is held by the Communications Fund (established by the Telecommunications Legislation Amendment (Future Proofing and Other Measures) Bill 2005) or the Future Fund (which is yet to be established) then the share is taken to be held by someone other than the Commonwealth.

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Clause 3(4) stipulates that ‘borrowed shares’ disposed of by the Commonwealth (the definition of which includes category A hybrid security issuer company) to a ‘borrower’ under a securities lending arrangement are to be taken as being held by the Commonwealth for the period those shares are held by the borrower.

The declaration of the designated day is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*. However, **clause 3(5)** specifically exempts the declaration of the designated day from the disallowance provisions in the *Legislative Instruments Act 2003*.

Clause 4(1) provides for the Minister to make a declaration that a particular day is the ‘85% sale day’. The 85% sale day is defined as the first day after the commencement of Part 1 of Schedule 1 of the Act on which 85% of the voting shares in Telstra are held by person(s) other than the Commonwealth.

Clause 4(3) stipulates that, for the purposes of section 4, where a share is held by the Communications Fund or the Future Fund then the share is taken to be held by someone other than the Commonwealth.

Clause 4(4) stipulates that ‘borrowed shares’ disposed of by the Commonwealth to a ‘borrower’ under a securities lending arrangement are to be taken as being held by the Commonwealth for the period those shares are held by the borrower.

The declaration of the designated day is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*. However, **section 4(5)** specifically exempts the declaration of the designated day from the disallowance provisions in the *Legislative Instruments Act 2003*.

Part 1 of Schedule 1

Part 1 of Schedule 1 sets out the amendments to the *Telstra Act* which take effect from the date of Royal Assent.

Items 1 – 5 insert into the *Telstra Act* new definitions for:

- ‘category A hybrid-security issuer company’—a hybrid-security issuer company that is not a category B hybrid-security issuer company
- ‘category B hybrid-security issuer company’—which is defined in section 8AJ(6B) (inserted by **item 13**) as being a hybrid–security issuer company (other than a wholly-owned Commonwealth company) specified in a written declaration by the Minister for Finance
- ‘Communications Fund’ and ‘Future Fund’ as established by laws of the Commonwealth, and

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- ‘hybrid-security issuer company’—which is defined in section 8AJ (inserted by **item 12**) to be a designated company

Item 7 removes a statement from the simplified outline of the Part 2 of the *Telstra Act* (‘Commonwealth ownership of Telstra’) that the Commonwealth must retain 50.1% equity in Telstra and inserts a statement that the Commonwealth may sell its remaining equity interest in Telstra.

Item 8 is the key provision in the Bill as it provides for the repeal of Division 2 of Part 2 of the *Telstra Act* (‘Commonwealth to retain majority ownership of Telstra’), effectively removing the requirement on the Commonwealth to retain a majority (50.1%) share in Telstra.

Items 9 – 16 set out the amendments to section 8AJ of the *Telstra Act* (‘Telstra sale scheme’) to put in place the mechanical provisions for the Commonwealth to sell further shares in Telstra.

Item 10 broadens the definition of a ‘Telstra sale scheme’ (section 8AJ (2) of the *Telstra Act*) to include a scheme which has as its object the transfer of *whole* or a part of the Commonwealth’s equity in Telstra (emphasis added).

Item 11 makes provision for the Minister for Finance to make a written determination setting out the rules to be complied with by a Telstra sale scheme. The determination of rules for the Telstra sale scheme is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*. However, item **11(3)** specifically exempts the declaration of the designated day from the disallowance provisions in the *Legislative Instruments Act 2003*.

Item 12 inserts new methods by which a Telstra sale scheme may be achieved, including:

- the issue by the Commonwealth or Telstra of sale-scheme hybrid securities
- an arrangement by which designated companies issue sale-scheme hybrid securities
- the guarantee by the Commonwealth of the obligations of a hybrid-security issuer company in relation to sale-scheme hybrid securities, and
- by a security leading arrangement for shares in Telstra.

Items 13 – 15 insert new definitions into the *Telstra Act* to effect the Telstra sale scheme.

Item 16 inserts into the *Telstra Act* a new **section 8AJA** which defines a sale-scheme hybrid security, as being any one of a combination of securities which can be redeemed in exchanged for share(s) in Telstra.

These securities may be issued in or outside of Australia, in Australian or foreign currency.

Section 8AK of the *Telstra Act* provides that the transactions by the Commonwealth (and sale-scheme trustees) in relation to the sale of shares in Telstra is exempt from stamp duty.

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Item 17 and 18 insert into section 8AK new definitions so that the transfer of sale-scheme hybrid securities is also exempt from stamp duty.

Item 19 inserts into section 8AL ('Appropriation – costs incurred by a Telstra sale scheme') a new subsection (3) specifically stating that appropriations from the Consolidated Revenue Fund for the purposes of discharging costs and expenses in relation to the Telstra sale scheme are not authorised following the commencement of the subsection. **Item 23 and 28** insert identical subsections into sections 8AS ('Reimbursement of expenses incurred in giving assistance') and 8BA ('Compensation – constitutional safety-net').

Item 24 inserts into the *Telstra Act* a new provision providing a defence to the Commonwealth from allegations of insider trading in relation to shares in Telstra, sale-scheme hybrid securities or a Telstra sale scheme by virtue of information in the possession of Commonwealth officers by providing for a 'Chinese wall arrangement'.

Item 27 inserts a new **section 8AYA** which requires that Telstra notify the Minister for Finance of 'equity-dilution conduct' (defined as conduct outside of a Telstra sale scheme which may result in dilution of the Commonwealth's equity in Telstra) or 'security-issue conduct' (defined as conduct that consists of the issue of a security or a financial product').

The Minister for Finance may give notice to Telstra not to engage in equity-dilution or security-issue conduct (**section 8AYA (7)**), and that notice is not a legislative instrument for the purposes of the *Legislative Instruments Act 2003* (**section 8AYA (11)**).

While Telstra must comply with a notice given by the Minister for Finance (**section 8AYA(8)**), failure to comply is not an offence, but is grounds for an injunction as provided for in Division 1, Part 2B of the *Telstra Act* (**section 8AYA(9)**).

Again, for the purposes of the provision, shares in the Communications Fund and Future Fund are taken to be held by a person other than the Commonwealth (**section 8AYA(10)**).

The new **section 8AYA** is repealed once the 85% sale day is declared (see **item 71**).

Item 27 also inserts a new **section 8AYB** provides that the Minister may give a direction for Telstra to provide information relevant to determining if a particular day is the designated day or the 85% sale day.

Item 27 also inserts a new **section 8AYD** which provides that where legislation requires a determination to be made as to whether the Commonwealth has a controlling interest in Telstra then the shares invested in the Communications or Future Funds are held by persons other than the Commonwealth.

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Item 36 inserts a new **Part 2C** which deals with the Parliament's re-affirmation of the universal service obligation, the digital data service obligation and the customer service obligation.

Item 38 inserts new provisions into clause 12 ('Direct control interests in a company') of the Schedule to the *Telstra Act*. The new **subclause 12 (4AA)** reiterates that in determining the controlling interest in Telstra, shares invested in the Communications or Future Funds are held by persons other than the Commonwealth. **Subclause 12 (4AB)** provides that other Telstra shares held by the Commonwealth and specified by the Minister in a declaration, are to be taken to be held by persons other than the Commonwealth.

Part 2 of Schedule 1

Part 2 of Schedule 1 sets out the amendments to other legislation which come into effect on the designated day (i.e. the day declared by the Minister as the day on which the majority of Telstra is owned by persons other than the Commonwealth).

The purpose of the amendments is to reflect in other legislation that Telstra is no longer a Commonwealth authority or entity once the Commonwealth no longer holds the majority share in the company.

Additionally, the amendments provide the necessary transitional arrangements to enable matters in process under the relevant legislation to be finalised.

The following Acts are amended by the provisions in Part 2 of Schedule 1, or have provision made for transitional arrangements:

- *Administrative Decisions (Judicial Review) Act 1977* (**item 41**)
- Archives Regulations (**item 42**)
- *Australian Security Intelligence Organisation Act 1979* (**items 43 – 46**)
- *Freedom of Information Act 1982* (**item 47**)
- Freedom of Information (Miscellaneous Provisions) Regulations 1982 (**items 48- 51**)
- Long Service Leave (Commonwealth Employees) Regulations 1957 (**item 52**)
- Maternity Leave (Commonwealth Employees) Regulations (**item 53**)
- Ombudsman Regulations 1977 (**item 54 - 56**)

Items 57 – 63 insert definitions into the *Telstra Act* consequent to the new Part 3A.

Item 64 inserts a **new Part 3A** into the *Telstra Act* to deal with transitional provisions for matters that require residual Commonwealth legal effect. These include employees' long service and maternity leave calculations for service period that were accrued as Commonwealth employees.

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Part 3 of Schedule 1

Part 3 of Schedule 1 sets out amendments to the *Telstra Act* that take effect on the 85% sale day (i.e. the day declared by the Minister as the day on which 85% of equity in Telstra is held by persons other than the Commonwealth).

Item 67 repeals Division 3, Part 2 of the *Telstra Act* which relates to Telstra's reporting requirements. **Items 68, 69 and 70** make consequential amendments caused by the repeal of Division 3, Part 2.

Item 71 repeals section 8AYA, being the provisions in relation to the power of the Minister for Finance to give a direction to Telstra not to engage in equity-diluting or security-issue conduct.

Item 72 repeals Part 3 of the *Telstra Act* ('Operation of Telstra'). Effectively **item 71** repeals the section giving the Minister authority to give directions to Telstra.

Concluding Comments

This Bill is the centrepiece of the legislative package for effecting the Government's long held objective of fully privatising Telstra.

The majority of provisions in the Bill are not new and are based largely on the 2003 Bill. In relation to the Bill itself, some differences arise in consequence of the Future Fund and the Communications Fund. The important elements of this package of Bills are found in the Bill dealing with the regulatory requirements to be imposed on a privatised Telstra and the telecommunications sector generally. These are found in the Telecommunications Legislation Amendment (Competition and Consumer Issues) Bill 2005.

Endnotes

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- 1 Brendan Bailey, '*Telstra (Transition to Full Private Ownership) Bill 2003*', [Bills Digest](#), no. 10, Department of Parliamentary Library, Canberra, 2003–04.
 - 2 Jonathan Chowns, '*Telecommunications Legislation Amendment (Competition and Consumer Issues) Bill 2005*', [Bills Digest](#), no. 46, Parliamentary Library, Canberra, 2005–06.
 - 3 Katrina Gunn and Jonathan Chowns, '*Telecommunications Legislation Amendment (Future Proofing and Other Measures) Bill 2005*', [Bills Digest](#), no. 44, Parliamentary Library, Canberra, 2005–06.
 - 4 Richard Webb, '*Appropriation (Regional Telecommunications Services) Bill 2005-2006*', [Bills Digest](#), no. 42, Parliamentary Library, Canberra, 2005–06.

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- 5 Jonathan Chowns and Ann Palmer, 'Telecommunications (Carrier Licence Charges) Amendment (Industry Plans and Consumer Codes) Bill 2005', *Bills Digest*, no. 41, Parliamentary, Canberra, 2005–06.
- 6 See: Senator Bob Brown, 'Second Reading: *Telstra* (Transition to Full Private Ownership) Bill 2005 and Telecommunications Legislation Amendment (Competition and Consumer Issues) Bill 2005', Senate, *Debates*, 8 September 2005, p. 28; Senator Stephen Conroy, Senate Environment, Communications, Information Technology and the Arts Legislation Committee Hearing 9 September 2005, p. 2; Senator Lyn Allison, *Deception and Arrogance Drive Telstra Sale*, media release, 7 September 2005.
- 7 Prime Minister John Howard, [Doorstop Interview Department of Foreign Affairs and Trade](#), Canberra, 9 September 2005.
- 8 http://www.aph.gov.au/senate/committee/ecita_ctte/sale_telstra/index.htm
- 9 Senator the Honourable Helen Coonan (Minister for Communication, Information Technology and the Arts), 'Second Reading Speech: *Telstra* (Transition to Full Private Ownership) Bill 2005 and Telecommunications Legislation Amendment (Competition and Consumer Issues) Bill 2005', Senate, *Debates*, 8 September 2005, p. 26.
- 10 See for example David Humphries and Louise Dodson, '[We were gagged: PM's line on Telstra](#)', *The Sydney Morning Herald*, 8 September 2005, p. 1.
- 11 section 152AB of the Trade Practices Act 1974 provides that the object of Part XIC of the Act (the access regime) is to promote the long-term interests of end-users of carriage services or of services provided by means of carriage services.
- 12 *Telstra Act*, subsection 9(2).
- 13 Item 72.
- 14 See: The Labor Party website at <http://www.alp.org.au/policy/index.php#communications>, accessed 11 September 2005; and Senator Stephen Conroy, *The Telstra sell out begins*, media release, 1 August 2005.
- 15 See Democrats website at: http://www.democrats.org.au/docs/2004/COMMUNICATIONS_Telecommunications.pdf,
- 16 See Senator Bob Brown, 'Greens will keep Telstra in public hands', media release, 13 September 2005, available at: <http://greens.org.au/mediacentre/mediareleases/senatorbrown/sept04/13093/view?searchterm=telstra>,
- 17 See: Senator Bob Brown, 'Second Reading: *Telstra* (Transition to Full Private Ownership) Bill 2005 and Telecommunications Legislation Amendment (Competition and Consumer Issues) Bill 2005', op. cit., pp. 28–29.
- 18 David Crowe and Tony Boyd, '[Nats give all-clear to Telstra sale](#)', *The Australian*, 25 August 2005, p. 1.
- 19 See ABC NewsOnline website: <http://www.abc.net.au/news/newsitems/200509/s1457696.htm>.

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- 20 Senate Environment, Communications, Information Technology and the Arts Legislation Committee Hearing, 9 September 2005, p. 72.
- 21 Senate Environment, Communications, Information Technology and the Arts Legislation Committee Hearing 9 September 2005, p. 59.
- 22 *Explanatory Memorandum*, Telstra (Transition to Full Private Ownership) Bill 2005, p. 11.
- 23 *Explanatory Memorandum*, op. cit., p. 14.

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