



Telecommunications Legislation Amendment (Protecting Services for Rural and Regional Australia into the Future) Bill 2007

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Telecommunications Legislation Amendment (Protecting Services for Rural and Regional Australia into the Future) Bill 2007

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House: House of Representatives

Portfolio: Communications, Information Technology and the Arts

Commencement: On Royal Assent

Links:

The [relevant links](#) to the Bill, Explanatory Memorandum and second reading speech can be accessed via BillsNet, which is at <http://www.aph.gov.au/bills/>. When Bills have been passed they can be found at ComLaw, which is at <http://www.comlaw.gov.au/>.

Purpose

The purpose of this legislation is to amend the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (the Act) to provide for the maintenance of a principal amount of \$2 billion in the Communications Fund.

Background

Basis of policy commitment

Following its election victory in 1996, the Coalition undertook to fulfil an election commitment to the partial privatisation of the national telecommunications carrier, Telstra. Following sale of one third of the carrier, in March 1998, the government moved to sell the remaining shares in Telstra.

The Senate, however, rejected this proposal and in response the government adopted a staged approach. In December 1998, it sold a further percentage of the carrier, bringing private ownership to 49 per cent. It also agreed to impose conditions on any further sale.¹

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1. G. O'Leary, *Telstra Sale: Background and chronology*, Parliamentary Library, Canberra, September 2003 <http://wopared.parl.net/library/pubs/chron/2003-04/04chr03.htm>. See also A. Palmer and J. Chownes, Bills Digest No 45, 2005/06, Telstra (Transition to Full Private Ownership) Bill 2005, Parliamentary Library, Canberra, for more detail <http://www.aph.gov.au/library/pubs/bd/2005-06/06bd045.htm> accessed 11 July 2007.

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In its 1998 election policy, the government committed to the conduct of an independent inquiry, the Telecommunications Service Inquiry (the Besley Inquiry), to assess the adequacy of telecommunications services in metropolitan, regional, rural and remote areas, prior to its acting to privatise Telstra fully.² In September 2000, the Besley Inquiry reported that aspects of services in rural and remote Australia were not adequate and recommended that the government ‘continued to provide financial and strategic assistance to ensure that those currently disadvantaged—especially in regional, rural and remote Australia—are able to take their place in an information society’.³

In August 2002, the then Minister for Communications, Information Technology and the Arts, Senator Richard Alston, announced that a further independent inquiry would review telecommunications services in regional, rural and remote Australia. The Regional Telecommunications Inquiry (the Estens Inquiry) reported that while some issues were being addressed in response to the earlier Besley Inquiry, telecommunications services in rural Australia could still be improved.⁴

The government accepted all the recommendations of the Estens Inquiry and in its response, released in June 2003, it committed \$181 million to improve access to telecommunications services and enhance a range of existing services. It recommended specifically that the government should provide funding for future service improvements in regional, rural and remote Australia.⁵

In the 2004 election campaign, the Prime Minister reaffirmed, however, that any further sale of Telstra would be subject to meeting rural service obligations and achieving levels of service in rural areas.⁶

2. Senator, the Hon. Richard Alston, (former) Minister for Communications, Information Technology and the Arts, media release, 19 March 2000, http://www.dcita.gov.au/Article/0,,0_4-2_4008-4_14874,00.html, accessed 12 July 2007.

3. *Connecting Australia. The Report of the Telecommunications Service Inquiry*, September 2000, p. 7, http://www.telinquiry.gov.au/files/final_report.pdf accessed 16 July 2007.

4. *Connecting Regional Australia. The Report of the Regional Telecommunications Inquiry*, 2002, <http://www.telinquiry.gov.au/rti-report/rti%20report%20text%20f-a%2018.pdf>, accessed 16 July 2007.

5. *ibid.* Recommendation 9.5.

6. Senator, the Hon. Helen Coonan, Minister for Communications, Information Technology and the Arts, media release, 5 September 2004, <http://parlinfoweb.aph.gov.au/piweb/repository1/media/pressrel/bwnd61.pdf> accessed 12 July 2007.

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Following a Coalition election victory in 2004, the National Party expressed reservations about the full disposal of Telstra shares and called for major concessions for the bush if the party was to support the sale. In July 2005, Deputy Prime Minister and Leader of the National Party, Mark Vaile, in an address to the Queensland National Party Conference, suggested that a \$2 billion Telecommunications Future Fund should be established with proceeds from the sale of Telstra. The fund would be used to secure the future of telecommunications in regional and rural Australia.⁷

This suggestion caused conflict within the Coalition, with some Liberals reportedly opposed to the fund and the Treasurer, Peter Costello, labelling the plan as ‘financially irresponsible’.⁸

The plan also caused some dissent within the National Party. Queensland Senator Barnaby Joyce initially considered the fund inadequate to deliver services to rural areas and called for funding of \$5 billion to be allocated. Senator Joyce later requested that a study was undertaken to examine the adequacy of the proposed funding.⁹ Senator Joyce also threatened to cross the floor to vote against the Telstra sale. He was criticised for his stance within the Nationals, particularly by New South Wales National Ian Causley.¹⁰

There was some suggestion that the government may have to reconsider the Telstra sale if the Nationals withdrew support,¹¹ despite the introduction of a plan to support

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7. Deputy Prime Minister, Minister for Trade, Leader of the Nationals, the Hon Mark Vaile, press release, 29 July 2005, <http://parlinfoweb.parl.net/parlinfo/Repository1/Media/pressrel/Y2TG60.pdf> accessed 16 July 2007.
 8. D. Crowe, ‘Coalition parties trade blows on Telstra’, *Australian Financial Review*, 2 August 2005, http://parlinfoweb.parl.net/parlinfo/view_document.aspx?ID=920363&TABLE=pressclp&TABLE=RGET= accessed 16 July 2007.
 9. D. Crowe, ‘Nat MPs want bigger bush fund’, *Australian Financial Review*, 9 August 2005, http://parlinfoweb.parl.net/parlinfo/Repository1/Media/npaper_0/3N WG60.pdf accessed 16 July 2007
 10. D. Crowe and B. Dunstan, ‘Nats strengthen Joyce’s hand on Telstra’, *Australian Financial Review*, 6 August 2005, http://parlinfoweb.parl.net/parlinfo/Repository1/Media/npaper_4/OVVG60.pdf accessed 16 July 2007. Ian Causley is the Nationals member for the New South Wales electorate of Page.
 11. *ibid.*

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On 26 September 2005, the government allocated funding to a Communications Fund account.¹⁶ Monies were invested in a short term deposit with the Reserve Bank of Australia to allow an investment framework to be agreed upon by the government. In July 2006, the Australian Office of Financial Management, which had served as the interim manager of the Fund since its establishment, was appointed as permanent manager. It was decided that Fund investment under the permanent management would concentrate on a portfolio of short-term, low-risk assets.¹⁷

Spending from the Fund has been tied to independent, regular reviews of telecommunications services in rural, regional and remote Australia. Reviews are to be conducted by the Regional Telecommunications Independent Review Committee established under the *Telecommunications Legislation Amendment (Regular Reviews and Other Measures) Act 2005*.¹⁸ The reviews will take place every three years with the first of these commencing in 2008.

Position of significant interest groups/press commentary

The National Farmers Federation (NFF) welcomed the establishment of the Communications Fund, but argued that funding needed to be accompanied by strong legislation to ensure that services were delivered to the bush.¹⁹ The NFF also criticised the timing of the review process, which is linked to the dispersement of monies from the Fund.

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16. Senator, the Hon. Helen Coonan, Minister for Communications, Information Technology and the Arts and Senator, the Hon. Nick Minchin, Minister for Finance and Administration, joint press release, 23 September 2005, <http://www.finance.gov.au/scripts/media.asp?Table=MFA&Id=629>, accessed 16 July 2007.
 17. '\$2 bn fund for telecoms', *The Australian*, 11 July 2006. http://parlinfoweb.parl.net/parlinfo/Repository1/Media/npaper_3/IQ7K60.pdf
 18. K. Gunn and J. Chowns, Telecommunications Legislation Amendment (Regular Reviews and other Measures Bill 2005, Bills Digest, no 44, Parliamentary Library, Canberra, 13 September 2005, <http://www.aph.gov.au/library/pubs/bd/2005-06/06bd044.pdf>
 19. F. Carruthers, 'Rural services upgrade meets cool reception', *Australian Financial Review*, 18 August 2005, http://parlinfoweb.parl.net/parlinfo/view_document.aspx?ID=923565&TABLE=pressclp&TABLEGET, accessed 17 July 2007.

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In a dissenting report to the Senate Environment, Communications, Information Technology and the Arts Committee examination of the Telstra sale and related bills, Labor Senators agreed with the view that the Communications Fund may not generate sufficient revenue to address communications issues in rural areas.²⁵ In their dissenting report, the Labor Senators also expressed concern about administration of the Fund, arguing there were legal and policy issues that needed to be scrutinised further before establishing the Fund.²⁶

The Australian Democrats argued in a report similarly dissenting from the findings of the Senate Environment, Communications, Information Technology and the Arts Committee that the combined funding for Connect Australia and Communications Fund was inadequate to provide fast modern broadband to regional and rural Australia. The Democrats also considered 'the government should undertake a mapping exercise of current fibre networks including 'dark fibre', develop a national plan to roll out broadband, and establish an adequate fund to finance the roll out. The \$2 billion future fund could be used to maintain and upgrade services into the future'.²⁷

In March 2007, the ALP released a communications policy document which argued that the Communications Fund:

was setup in 2005 as a consequence of pressure from the National Party. The Fund is intended to earn an income stream to finance spending on telecommunications projects in regional Australia – but it will not result in a national broadband network. These projects are supposed to come from the Government's response to any recommendations proposed by the Regional Telecommunications Independent Review Committee. Despite the Fund being established in 2005, this report is not due until 2008. Labor will use this asset to provide investment capital to deliver high-speed broadband across Australia.²⁸

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25. Labor Senators' Dissenting Report in Senate Environment, Communications, Information Technology and the Arts Committee Inquiry, op. cit.
http://www.aph.gov.au/Senate/committee/ecita_ctte/sale_telstra/report/d01.htm, accessed 17 July 2007.
 26. *ibid.*
 27. Australian Democrats Senators' Dissenting Report in Senate Environment, Communications, Information Technology and the Arts Committee Inquiry, op. cit.
 28. Australian Labor Party, *New directions for communications. A broadband future for Australia. Building a national broadband network*, March 2007,
<http://parlinfoweb.parl.net/parlinfo/Repository1/Library/partypol/E2KM61.pdf>, accessed 17 July 2007.

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On 18 June 2007, the government also announced funding for a broadband initiative, *Australia Connected*.²⁹ In making this commitment, Senator Coonan noted the centrepiece of the initiative was ‘national broadband network that will extend high speed services out to 99 per cent of the population and provide speeds of 12 megabits per second by mid 2009’.³⁰ The Senator noted further that the network would have capacity ‘to provide vastly increased speeds as Australia’s demand for bandwidth grows, with funding already assured from the ongoing income stream provided by the Government’s \$2 billion Communications Fund’.³¹

On 21 June 2007, Senator Coonan announced that the government would introduce legislation to protect the \$2 billion principal of the Communications Fund ‘so that only the interest earned from the Fund, up to \$400 million every three years, can be spent’. The government intended the legislation would also prevent Labor using funds in the Communications Fund to build its proposed national broadband network.³²

Financial implications

The Bill is not expected to have any financial implications for Commonwealth revenue or expenditure.

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29. See the Department of Communications, Information Technology and the Arts website for information on the various aspects of the *Australia Connected* package http://www.dcita.gov.au/communications_for_consumers/funding_programs_and_support/australia.
 30. Senator, the Hon. Helen Coonan, Minister for Communications, Information Technology and the Arts, press release, 21 June 2007, http://www.minister.dcita.gov.au/media/media_releases/australia_connected_fast_affordable_broadband_for_all_australians, accessed 17 July 2007.
 31. Senator, the Hon. Helen Coonan, Minister for communications, Information Technology and the Arts, press release, 21 June 2007, http://www.minister.dcita.gov.au/media/media_releases/australia_connected_fast_affordable_broadband_for_all_australians, accessed 17 July 2007.
 32. Senator, the Hon. Helen Coonan, press release, 21 June 2007, http://www.minister.dcita.gov.au/media/media_releases/protecting_the_communications_fund_from_the_labor_drain, accessed 17 July 2007.

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Main provisions

Schedule 1– Amendment

Item 1– inserts a **new section 158ZA** to require the Minister to take all reasonable steps to ensure that the balance of the Communications Fund Special Account and the value of investments of the Fund do not fall below \$2 billion.

Conclusion

As noted above, this Bill ensures that a minimum of \$2 billion remains in the Communication Fund to ensure monies continue to be available to support the delivery of telecommunications to rural Australia. While there were concerns raised when the Communications Fund was established that the monies allocated to the fund would not be adequate to ensure the delivery of services to rural areas, there was no question that funding should be made available for this purpose.

The ALP has since introduced a plan to use monies in the Communications Fund to provide investment capital to deliver high-speed broadband across Australia. This legislation is intended to prevent the Communications Fund from being accessed for such purposes.

The legislation could, however, be overturned if Labor wins the next election and secures a majority in the Senate or if the composition of the Senate after the election is conducive to an ALP government negotiating options to allow it to introduce its broadband proposals.

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