

# QONs- Inquiry into the Telstra Corporation and Other Legislation Amendment Bill 2021 – Additional Questions

Department of Infrastructure, Transport, Regional Development and Communications

**1. *When did Telstra first approach the Department about its separation and the need for legislation to address regulatory issues that could arise as a result of new legal entities being established?***

Telstra first approached the Department in December 2020 with a broad outline of its restructure. Since that time additional detail has been made available.

**2. *When did the Department first begin working with Telstra to understand the issues? Please provide a timeline of key dates and milestones.***

Telstra first approached the Department in December 2020 with a broad outline of its proposed restructure. Key dates associated with the Bill are as follows:

- 12 November 2020: Telstra publicly announced its planned corporate restructure.
- 3 December 2020: Initial discussion between Telstra and the Department.
- April – June 2021: The Department held regular meetings with Telstra as details of Telstra's proposed restructure become available.
- June 2021: The Department liaised with the Office of Parliamentary Counsel to commence drafting the Bill.
- July – September 2021: The Department and Telstra met regularly to discuss the restructure in more detail, including which entities in the new structure would be responsible for regulatory obligations.
- 14 September 2021: The Department released the exposure draft of the Bill to a limited number of industry stakeholders for review.
- 21 October 2021: The Bill was introduced into the House of Representatives.

**3. *When did the Department first receive legal advice about the regulatory issues that could arise from separation?***

As with the development of all complex bills, the Department sought legal advice at the appropriate times in relation to the Bill on a number of occasions.

**4. *Were any aspects of the draft legislation watered down? If yes, why were they watered down? On what dates? And how do those dates interact with developments on the Digicel deal?***

The Department would not characterise any of the changes to the Bill as it has developed as 'watering it down'. Throughout the process the Department has focussed on a clear objective of maintaining regulatory equivalence and has made this objective clear to Telstra. Any changes have been as a result of drafting improvements to more fully capture the Government's policy intent and strengthen the provisions to reduce the possibility that they are ineffective. Some changes to the Bill (prior to introduction) were to improve its robustness, and the practicality of achieving policy outcomes.

The Department is not aware of any connection between the proposed Digicel transaction and the development of the Bill.

**5. Please provide any dates where the Minister and Minister McKenzie met to discuss the Bill.**

The Department is aware that the Ministers meet regularly, but are not aware of the specifics of those discussions. However, we are aware that there was a discussion about the restructure between Minister Fletcher and Minister McKenzie on 21 September 2021.

**6. Could any foreign ownership limits be diluted as a result of this Bill?**

No. The Bill preserves the foreign ownership limits on Telstra, and also applies them to the key subsidiaries in the Telstra group.

There is some adjustment made to s14.1 of the Share Regulations, to avoid an anomalous effect of InfraCo Fixed being treated differently to the other Telstra successor companies in terms of thresholds, because of the operation of that provision. However we would not characterise this as a dilution of obligations, more an adjustment to ensure the Regulations operate to recognise the context of the foreign ownership limits applying to more than one Telstra entity.

**7. Please list each legislative instrument or determination associated with the Telstra separation, that is dealing with grandfathering workforce and employment conditions. Please also list the status of each instrument.**

The [SRC Act declaration](#) made earlier in 2021 relates to Telstra Limited (then Network Design and Construction Limited) and was made to allow coverage under the *Safety, Rehabilitation and Compensation Act 1988* (SRC Act) to be maintained for Telstra employees who were transferred to this company from Telstra Corporation Limited. The Safety, Rehabilitation and Compensation Commission has granted a self-insurance licence which will commence on 9 December 2021.

The *Long Service Leave (Commonwealth Employees) Amendment (Telstra New Entities) Regulations 2021* commenced on 6 August 2021. The regulation seeks to ensure that long service leave entitlements under the *Long Service Leave (Commonwealth Employees) Act 1976* continue to apply to certain Telstra employees moving to a new corporate entity post-restructure.

The *Work Health and Safety Amendment (Public Authorities) Regulations 2021* commenced on 11 August 2021. This regulation ensures that Telstra workers do not fall out of coverage of the *Work Health and Safety Act 2011* and will provide consistency of work health and safety arrangements for the entities across states and territories. The disallowance period ends on 24 November 2021.

**8. Are there any outstanding workforce and employment issues remaining to be dealt with?**

Telstra is responsible for managing its employment matters and has not advised the Department of any further employment matters that will be subject to regulatory amendments.

**9. Are any conditions, which employees under Telstra have at the moment, being watered down or diluted as a result of the proposed separation?**

The *Work Health and Safety Amendment (Public Authorities) Regulations 2021* and the *Long Service Leave (Commonwealth Employees) Amendment (Telstra New Entities) Regulations 2021* operate to maintain coverage for Telstra and its employees under the *Work Health and Safety Act 2011* and the *Long Service Leave (Commonwealth Employees) Act 1976* respectively.

The Attorney-General's Department advises us that approximately 213 employees have been identified that will be employed by Telstra entities (post-restructure) that do not have a self-insurance license under the SRC Act. These employees will therefore need to be covered under state and territory workers' compensation arrangements. Therefore the Department is satisfied that the employment conditions have not been watered down due to the proposed separation.

**10. Have the Prime Minister and the Minister exchanged any letters on the structural separation of Telstra? If yes, please provide the dates for each of those letters.**

The Department is not aware of any correspondence between the Minister and the Prime Minister, in this term of Government around the structural separation of Telstra.

In relation to the Bill, in accordance with the Legislation Handbook, approval was sought to consult outside of Government on the text of the Bill in third quarter of 2021, and subsequently an exchange of letters occurred in relation to policy approval for the Bill in September 2021.

**11. Have the Prime Minister and Telstra exchanged any letters on the Bill? If yes, please provide dates.**

Questions about the Prime Minister's engagement are to be directed to the Department of the Prime Minister and Cabinet.

**12. Did any of the letters, either from the PM, or the Minister, make reference to Digicel as being connected with this piece of legislation?**

Questions about the Prime Minister's engagement are to be directed to the Department of the Prime Minister and Cabinet.

**13. What role, if any, did the Department of Infrastructure play in the Digicel deal?**

The Department works with the Department of Foreign Affairs and Trade (DFAT) on a range of matters pertaining to international telecommunications. DFAT sought relevant technical and policy advice from the Department in relation to telecommunications matters pertinent to the Pacific, and Digicel.

**14. When did deliberations on Digicel begin, according to the Department's understanding? When did the Department first become aware?**

At the request of DFAT, the Department became involved in the telecommunications matters relating to the Digicel transaction in mid 2020. However, the Digicel transaction is not connected to the Bill. Questions concerning the Digicel transaction should be referred to the Department of Foreign Affairs and Trade, or to the Minister for Foreign Affairs.