



**Australian Government**

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**Department of Broadband,  
Communications and the Digital Economy**

our reference: 2008/518

**Submission to the Senate Standing Committee on Environment,  
Communications and the Arts Inquiry into the Telecommunications Legislation  
Amendment (Communications Fund) Bill 2008 [Provisions]**

18 April 2008

**Background**

The Communications Fund, comprising the Communications Fund Special Account and investments of the Communications Fund, was established in September 2005 by the *Telecommunications Legislation Amendment (Future Proofing and Other Measures) Act 2005*, which amended the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (the Act), by inserting a new Part 9C in that Act. This included an initial deposit of \$2 billion made to the Communications Fund Special Account in September 2005.

Part 9C of the Act sets out the purposes for which money in the Communications Fund Special Account may be spent and provides for the responsible Ministers (the Minister for Finance and Deregulation and the Minister for Broadband, Communications and the Digital Economy) to authorise the investment of money standing to the credit of the Communications Fund Special Account, in any financial asset.

Part 9C also requires that the Communications Fund's principal amount of \$2 billion be maintained so that only funds in excess of \$2 billion are available for use in relation to the purposes specified in section 158ZI of the Act.

The Communications Fund provides an income stream to fund the Commonwealth Government's response to any recommendations relating to telecommunications services in regional, rural and remote parts of Australia made in the Regional Telecommunications Independent Review Committee's (the Committee) review (section 158ZI of the Act).

The National Broadband Network is expected to provide broadband services to 98 per cent of Australian homes and businesses, including regional and rural areas, with minimum downlink speeds of 12 megabits per second.

In parallel to the National Broadband Network process, the Minister for Broadband, Communications and the Digital Economy has called for submissions on policy and funding initiatives to provide enhanced broadband to rural and remote areas. The Minister has also committed \$95 million to the continuation of the Australian Broadband Guarantee in 2008-09.

## **Rationale for the Bill**

The Government has committed to contribute up to \$4.7 billion and consider regulatory changes to facilitate the roll-out and operation of a new, high-speed fibre-based broadband network (the National Broadband Network) over five years. The Government has indicated it would use the Communications Fund to partly fund its commitment to the National Broadband Network.

The *Telecommunications Legislation Amendment (Communications Fund) Bill 2008* (the Bill) would enable the Communications Fund to be used for purposes relating to the creation or development of a broadband telecommunications network. The National Broadband Network will be a broadband telecommunications network.

## **National Broadband Network Request for Proposals**

On 11 April 2008, the Government released a Request for Proposals (RFP) to roll-out and operate the National Broadband Network. Proposals must be lodged by 3.00pm local Canberra time on Friday 25 July 2008.

Further details of the objectives and evaluation criteria for the National Broadband Network may be found in the RFP, which is available on the AusTender website at [www.tenders.gov.au](http://www.tenders.gov.au).

Proposals in response to the RFP will be assessed by the Panel of Experts which was announced by the Minister for Broadband, Communications and the Digital Economy on 11 March 2008. It is anticipated that the Panel of Experts will recommend their preferred proponent(s) to Government in September 2008. The Government is expected to announce the successful proponent(s) in October 2008 in order for the roll-out of the National Broadband Network to commence by the end of 2008.

## **Outline of the Legislation**

The main measures in the Bill amend Part 9C of the Act by:

- specifying additional purposes for which money in the Communications Fund Special Account may be used, to enable money in the Account to be used for purposes relating to the creation or development of a broadband telecommunications network (Item 10 of Schedule 1 to the Bill);
- repealing section 158ZJA of the Act which requires the balance of the Communications Fund Special Account not to fall below \$2 billion, thereby enabling that balance to be available for funding the creation or development of the National Broadband Network, if required (Item 12 of Schedule 1); and
- repealing section 158ZJ of the Act, as that provision is now spent. Section 158ZJ provides for the sum of \$2 billion in cash to be credited to the Communications Fund Special Account (Item 8 of Schedule 1).

The Bill also makes a number of consequential and transitional amendments to the Act.

### **The use of the Communications Fund for the National Broadband Network**

The Government has indicated it would utilise \$2 billion from the Communications Fund to partly fund its commitment to contribute up to \$4.7 billion for the National Broadband Network.

The RFP asks proponents to specify in their proposals the level and nature of proposed funding arrangements, including the Commonwealth funding required (up to \$4.7 billion), the commercial and non-commercial elements of the proposal and the proposed return on investment.

Item 10 of Schedule 1 to the Bill, which would allow money in the Communications Fund to be used for purposes relating to the implementation of the National Broadband Network, is intended to provide flexibility for the way the Government may ultimately provide funding for or invest in, the National Broadband Network. The additional purposes would therefore allow money in the Communications Fund to be used:

- (a) to acquire shares in a company, units in a unit trust, debentures of a company involved in, or assets for use in connection with, the creation or development of a broadband telecommunications network;
- (b) to make grants of financial assistance (including for the supply of broadband carriage services); and
- (c) for ancillary and incidental purposes to the above.

The purposes described in Item 10 of Schedule 1 to the Bill are not intended to prejudice any particular form of funding in a National Broadband Network, rather they are intended to cover all probable options for investing in or funding a National Broadband Network to give proponents flexibility in preparing proposals and to provide the Panel of Experts with flexibility to assess proposals on the basis of value for money with regard to the costs to the Commonwealth.

The RFP states that the Commonwealth's contribution may take the form of debt or equity which would be required to earn a return. While the Government has previously indicated its preference for an equity investment, other forms of funding will also be considered.

The final Budget implications of the National Broadband Network will depend on the proposals put forward and, ultimately, the form of the Government's contribution to the National Broadband Network.

### **Role of the Regional Telecommunications Independent Review Committee and other broadband commitments**

The Regional Telecommunications Independent Review Committee is established by the *Telecommunications (Consumer Protection and Service Standards) Act 1999* to review the adequacy of telecommunications services in regional, rural and remote parts of Australia. The Bill will not change the reporting requirements of the Regional Telecommunications Independent Review Committee.

On 4 February 2008, the Government extended the current Regional Telecommunications Review, chaired by Dr Bill Glasson AO, to report to the Minister for Broadband, Communications and the Digital Economy in August 2008. This extension will enable the Committee to take into account other Australian Government regional telecommunications policies, such as the National Broadband Network.

The Government is required to respond to each House of the Parliament within 6 months after receiving the report from the Committee.

The Government has announced it will separately fund an additional \$95 million in 2008-09 for the continuation of the Australian Broadband Guarantee.

The Australian Broadband Guarantee offers subsidised access to metro-comparable broadband services to those who would otherwise be unable to receive a metropolitan comparable broadband service. The program operates by paying a subsidy of up to \$2,750 (GST-inclusive) per premise to registered providers for every eligible premise they connect to a metro-comparable broadband service.

In parallel to the National Broadband Network process, the Government is separately inviting proponents, industry, public interest groups and other interested parties to make submissions on policy and funding initiatives to provide affordable access to broadband services to remote areas that may be outside the National Broadband Network coverage area.

This could include strategies to enhance the Australian Broadband Guarantee program to achieve outcomes comparable to the National Broadband Network. Submissions will be considered by the Regional Telecommunications Independent Review Committee. Submissions are due by 5.00pm AEST 30 June 2008.