

RECOMMENDATIONS

RECOMMENDATION 2.1 The Committee recommends that the definition of emergency call service in clause 7 of the Telecommunications Bill 1996 be amended to provide that such a service includes transferring the call to an appropriate emergency service organisation.

RECOMMENDATION 2.2 The Committee recommends that clause 23 of the Telecommunications Bill 1996 be amended so that students of any tertiary education institution are within that institution's immediate circle.

RECOMMENDATION 2.3 The Committee recommends that clause 23 of the Telecommunications Bill 1996 be amended to ensure that persons within an immediate circle have reciprocal rights to supply communications services to each other without requiring licensing as a carrier or becoming a carriage service provider.

RECOMMENDATION 2.4 The Committee recommends that clause 23 of the Telecommunications Bill 1996 be amended to enable the Minister to declare whether a government authority or institution is carrying on a business as a core function.

RECOMMENDATION 2.5 The Committee recommends that the Minister amend clauses 34, 48 and 92 of the Telecommunications Bill 1996 taking into account the issues raised by the Federation of Australian Commercial Television Stations and the Australian Broadcasting Corporation regarding the boundaries of the exemption of broadcasters from carrier and service provider regulation.

RECOMMENDATION 2.6 The Committee recommends that the exemptions for transport authorities from carrier licensing and service provider regulation contained in clauses 47 and 91 of the Telecommunications Bill 1996 be amended to reflect changing structural arrangements in those industries.

RECOMMENDATION 2.7 The Committee recommends that clause 104 of the Telecommunications Bill 1996 be amended to exclude content service providers from the Australian Communications Authority's monitoring obligations under Part 5 of that Bill.

RECOMMENDATION 2.8 The Committee recommends that clause 112(3)(f) of the Telecommunications Bill 1996 be amended to provide that privacy issues relating to directory products and services are examples of matters which may be dealt with by an industry code or industry standard.

RECOMMENDATION 2.9 The Committee recommends that the exceptions contained in clause 114(2) of the Telecommunications Bill 1996 enable codes or standards addressing privacy-related matters to have effect despite directly or indirectly requiring customer equipment, cabling, networks or facilities to have certain characteristics.

RECOMMENDATION 2.10 The Committee recommends that clause 114 of the Telecommunications Bill 1996 be amended to prevent codes or standards made under Part 6 from dealing with matters addressed by a code registered, or standard made, under the *Broadcasting Services Act 1992*.

RECOMMENDATION 2.11 The Committee recommends that the public consultation requirements imposed by clause 129 of the Telecommunications Bill 1996 be amended to require a minimum consultation period of 30 days.

RECOMMENDATION 2.12 The Committee recommends that clause 129(1)(b) of the Telecommunications Bill 1996 be amended to require the Australian Communications Authority to make copies of draft industry standards available without charge.

RECOMMENDATION 2.13 The Committee recommends that clause 138 of the Telecommunications Bill 1996 be amended to enable equipment for people with a disability to be specified as part of the Universal Service Obligation.

RECOMMENDATION 2.14 The Committee recommends that Part 7 of the Telecommunications Bill 1996 be amended to ensure that "eligible persons" for the purposes of clause 192 may request information in relation to an Australian Communications Authority decision to declare an area a net cost area.

In deciding whether to make such information available under clause 192(4), the Australian Communications Authority should be given the discretion to

release information which would otherwise be considered confidential if it seeks and receives undertakings, such as solicitors' undertakings, that the information will not be divulged to any person other than those specified in the undertaking. The Explanatory Memorandum to the Bill should note that such undertakings might, for example, restrict access to the information to a carrier's accountant, solicitor and Finance Director.

RECOMMENDATION 2.15 The Committee recommends that Part 7 of the Telecommunications Bill 1996 should be amended to provide the Australian Communications Authority with a discretion to retrospectively declare an area to be a net cost area where a universal service provider incurs a substantial unanticipated loss in the area as a result of circumstances beyond its control.

RECOMMENDATION 2.16 The Committee recommends that the Telecommunications Bill 1996 be amended to require the Minister to review the issue of alleged exploitation of the legislative requirement of untimed local calls and provide a written report to Parliament by 1 July 1998. The report should consider whether clause 216 of the Bill should be amended to prevent significant exploitation of the untimed local call provision, for example, by a) imposing unreasonable costs on carriage service providers, or b) excessive cross-subsidisation from one sector of the community to another.

The report should also consider whether any such amendment will substantially lessen competition in any telecommunications market in Australia.

RECOMMENDATION 2.17 The Committee recommends that Part 9 of the Telecommunications Bill 1996, which relates to the Customer Service Guarantee, be amended to: a) extend the range of matters about which the Australian Communications Authority can make performance standards to include other matters in relation to which the Authority thinks it appropriate to develop standards (clause 224); b) increase the proposed statutory cap for damages payable by a carrier for contravention of performance standards from \$3,000 to \$25,000 (clause 226); and c) include a provision that prevents the power to issue evidentiary certificates (clause 227) from affecting the right of a customer to complain to the Telecommunications Industry Ombudsman about a breach of a performance standard.

RECOMMENDATION 2.18 The Committee recommends that clause 235 of the Telecommunications Bill 1996 be amended to require Internet Access Providers and Internet Service Providers to enter into the Telecommunications Industry Ombudsman scheme.

RECOMMENDATION 3.1 The Committee recommends that appropriate amendments be made to clause 255 of the Telecommunications Bill 1996 to specify that an objective of the emergency call service provisions is that calls made to an appropriately qualified emergency call handling person are to be passed to the appropriate emergency service organisation with the minimum of delay.

RECOMMENDATION 3.2 The Committee recommends that clause 255(7) of the Telecommunications Bill 1996 be amended to provide that the Australian Communications Authority must consult with consumers and consumer representatives before making a determination regarding emergency call services.

RECOMMENDATION 3.3 The Committee recommends that Part 12 of the Telecommunications Bill 1996 be amended to clarify funding arrangements for the handling of emergency calls. In particular, the legislation should clearly establish that the responsibility for funding those services should be borne by carriers and carriage service providers. The contributions of individual carriers and carriage service providers should broadly reflect the costs generated by their respective customers.

RECOMMENDATION 3.4 The Committee recommends that Division 3 of Part 13 of the Telecommunications Bill 1996 be amended to require a warrant for access by law enforcement agencies and public revenue agencies to the content of data communications, including stored data communications.

RECOMMENDATION 3.5 The Committee recommends that the definition of "enforcement agency" in clause 267(7) of the Telecommunications Bill 1996 be amended to include a "National Common Police Service" to be defined as "an agency responsible to the Australasian Police Ministers' Council for the facilitation of national law enforcement support, and includes the National Exchange of Police Information."

RECOMMENDATION 3.6 The Committee recommends that clause 290 of the Telecommunications Bill 1996 be amended to ensure that the Privacy Commissioner is consulted regarding the form of certificates issued under clauses 267(3), (4) or (5).

RECOMMENDATION 3.7 The Committee recommends that clause 299 of the Telecommunications Bill 1996 be amended to ensure that the help given for national interest purposes, as described in clause 298 of the Bill, should be provided on a "not-for-profit" basis.

RECOMMENDATION 3.8 The Committee recommends that clause 334(8) of the Telecommunications Bill 1996 be amended to enable the Australian Communications Authority's discretionary power (in clause 334(2)) to be used to extend pre-selection obligations to calls made to or from public mobile telecommunications services.

RECOMMENDATION 3.9 The Committee recommends that clauses 363, 367 and 389 of the Telecommunications Bill 1996 be amended to require the Australian Communications Authority to provide interested persons with at least 60 days in which to make representations regarding proposed standards or rules.

RECOMMENDATION 3.10 The Committee recommends that clause 442 of the Telecommunications Bill 1996 be amended to require the Australian Competition and Consumer Commission to issue a direction to the Australian Communications Authority in relation to number portability before the first numbering plan is made by the Australian Communications Authority.

RECOMMENDATION 3.11 The Committee recommends that clause 444 of the Telecommunications Bill 1996 be amended in order to provide the Australian Communications Authority with greater flexibility in undertaking consultation about the numbering plan.

RECOMMENDATION 3.12 The Committee recommends that clause 474 of the Telecommunications Bill 1996 be amended to provide members of the public with a minimum of 28 days, from the date of public notification of an inquiry, to provide written submissions to the Australian Communications Authority in relation to that inquiry.

RECOMMENDATION 3.13 The Committee recommends that clause 501 of the Telecommunications Bill 1996 be amended to ensure that the Australian Communications Authority is not required to publish, or to disclose to a person to whose affairs it relates, a report or part of a report if the publication or disclosure would involve the unreasonable disclosure of personal information about any person (including a deceased person).

RECOMMENDATION 4.1 The Committee recommends that clause 6 of Schedule 1 of the Telecommunications Bill 1996 be amended to require carrier industry development plans to include any relevant particulars regarding the carrier's proposed activities in the areas of strategic commercial relationships, research and development activities, exports and employment.

RECOMMENDATION 4.2 The Committee recommends that, in addition to the amendment detailed in Recommendation 4.1, clause 6 of Schedule 1 to the Telecommunications Bill 1996 be amended to provide that carrier industry development plans must include a section on disabled users that outlines the carrier's proposed activities in relation to equipment for use by people with disabilities, including research and development; the encouragement of new activities with Australian based suppliers; and exports.

RECOMMENDATION 4.3 The Committee recommends that Part 2 of Schedule 1 to the Telecommunications Bill 1996 be amended to require the Minister for Industry, Science and Tourism to table a report, before 31 December 1998 and thereafter before the end of each subsequent year, on progress made by carriers in meeting industry development commitments in the previous financial year.

RECOMMENDATION 4.4 The Committee recommends that the Department of Communications and the Arts consider replacing current references to *'connection with'* in clauses 29 and 30 of Schedule 1 to the Telecommunications Bill 1996 with *'relation to'* for clarification purposes.

RECOMMENDATION 4.5 The Committee recommends that clause 37 of Schedule 1 and clause 46 of Schedule 3 to the Telecommunications Bill 1996 be amended to: a) require that carriers keep records of telecommunications transmission towers and designated overhead lines; and b) provide that the Australian Communications Authority has a discretion to inform members of the public about the kinds and location of telecommunications transmission towers and designated overhead lines respectively.

RECOMMENDATION 4.6 The Committee recommends that the Minister apply a new licence condition to carriers requiring them to place their designated overhead lines underground in areas where all other aerial cabling is placed underground.

RECOMMENDATION 4.7 The Committee recommends that the terms "height", "volume", "fully enclosed" and "public utility" be defined in clause 2 of Schedule 3 to the Telecommunications Bill 1996 in a manner consistent with those used in the Telecommunications National Code 1996.

RECOMMENDATION 4.8 The Committee recommends that clause 5 of Schedule 3 to the Telecommunications Bill 1996 be amended to require the Minister to make a determination regarding low-impact facilities by 1 July 1997.

RECOMMENDATION 4.9 The Committee recommends that Schedule 3 to the Telecommunications Bill 1996 be amended to require carriers to restore, within a reasonable timeframe, any site disturbed by the installation of facilities undertaken in accordance clause 5 of that Schedule. Failure to comply with this requirement should be made subject to an appropriate penalty.

RECOMMENDATION 4.10 The Committee recommends that clause 6 of Schedule 3 to the Telecommunications Bill 1996 be amended to provide that the authorisation of maintenance activities includes the installation of additional facilities but only in so far as the facility complies with the conditions in clause 6(4) of the Schedule, including that it: a) does not increase noise levels; and b) is located inside a fully-enclosed building which does not need to be externally modified as a result of the installation.

RECOMMENDATION 4.11 The Committee recommends that clause 13 of Schedule 3 to the Telecommunications Bill 1996 be amended to require the Minister to make a Code of Practice on or before 1 July 1997 setting out conditions with which carriers must comply when engaging in authorised land inspection and facilities installation and maintenance activities.

RECOMMENDATION 4.12 The Committee recommends that clause 15 of Schedule 3 to the Telecommunications Bill 1996 be amended to require that, in giving notice to the owner or occupier of land of its intention to undertake activities authorised by that Schedule, a carrier must inform the owner or occupier of their rights to compensation should they suffer loss or damage as a result of that activity.

RECOMMENDATION 4.13 The Committee recommends that Division 5 of Part 1 of Schedule 3 to the Telecommunications Bill 1996 be amended to require carriers to repair any damage done during inspection of land undertaken pursuant to clause 4 of that Schedule.

RECOMMENDATION 4.14 The Committee recommends that the references to '*degradation of environmental amenity*' in clauses 25(1)(g) and 25(5) of Schedule 3 to the Telecommunications Bill 1996 be replaced with '*degradation of the environment*'.

RECOMMENDATION 4.15 The Committee recommends that clause 55 of Schedule 3 to the Telecommunications Bill 1996 be amended to grandfather a carrier's rights in relation to land acquired under the previous powers and immunities arrangements.

RECOMMENDATION 5.1 The Committee recommends that the definition of 'content service' in proposed section 152AC of the Trade Practices Amendment (Telecommunications) Bill 1996 be amended to include a 'proposed content service'.

RECOMMENDATION 5.2 The Committee recommends that the Minister give consideration to amending proposed section 152BO of the Trade Practices Amendment (Telecommunications) Bill 1996 in light of concerns raised regarding its possible interpretation.

RECOMMENDATION 6.1 The Committee recommends that clause 39 of the Telecommunications (Transitional Provisions and Consequential Amendments) Bill 1996 be amended to ensure that further eligible services incorporated into an access agreement between the existing carriers in the period between 13 September 1996 and 30 June 1997 may be included by the Australian Consumer and Competition Commission in its initial list of declared services for the access regime.

RECOMMENDATION 6.2 The Committee recommends that the Telecommunications (Transitional Provisions and Consequential Amendments) Bill 1996 be amended to provide that, if a person who was an eligible service provider or carrier on 30 June 1997 (within the meaning of the *Telecommunications Act 1991*) notifies the Australian Competition and Consumer Commission of a dispute regarding the terms and conditions of access to a declared service before 31 December 1997, any determination made by the Australian Competition and Consumer Commission in regard to that

dispute has effect from: a) 1 July 1997; or b) if the service was first supplied at a later date, that date.

RECOMMENDATION 6.3 The Committee recommends that the Telecommunications (Transitional Provisions and Consequential Amendments) Bill 1996 be amended to require the Telstra Corporation Ltd to file tariffs with the Australian Competition and Consumer Commission until 30 June 1999 with regard to those services for which it is currently required to file tariffs with AUSTEL. The Commission should have the discretion to release the Telstra Corporation Limited from any or all of these obligations at an earlier date where it is of the view that continuing the obligation is no longer justified.

The Committee further recommends that the public release of information filed under these transitional obligations be subject to the public benefit test contained in proposed section 151BQ of the Trade Practices Amendment (Telecommunications) Bill 1996.

RECOMMENDATION 6.4 The Committee recommends that clause 68 of the Telecommunications (Transitional Provisions and Consequential Amendments) Bill 1996 be deleted and replaced by a provision enabling the current numbering plan to remain in place for an appropriate period until a new numbering plan has been produced.

RECOMMENDATION 7.1 The Committee recommends that clauses 153D and 153H of the Radiocommunications Amendment Bill 1996 be amended to require the Spectrum Management Agency to give to each affected licensee a copy of a notice of the making of a re-allocation declaration.

RECOMMENDATION 7.2 The Committee recommends that clause 153C, concerning the 900 Megahertz Band Plan, be deleted from the Radiocommunications Amendment Bill 1996.

RECOMMENDATION 8.1 The Committee recommends that the Minister amend the Australian Communications Authority Bill 1996 to ensure that the Consumer Consultative Forum is re-established by the Australian Communications Authority under the post 1997 regulatory arrangements.

RECOMMENDATION 8.2 The Committee recommends that clause 6 of the Australian Communications Authority Bill 1996 be amended to require the Australian Communications Authority to report to the Minister on options for placing telecommunications facilities underground and monitoring progress with implementation of arrangements to place telecommunications facilities underground. As part of this function, the Authority will be required to investigate options for placing such facilities underground as part of a co-ordinated program for placing other above ground facilities, including electricity transmission and distribution facilities, underground.

RECOMMENDATION 9.1 The Committee recommends that the Minister for Communications and the Arts amend existing price control arrangements for the Telstra Corporation Limited, made under the *Telstra Corporation Act 1991*, to ensure that the price ceiling across Australia for untimed local calls is revised on an annual basis to reflect average price reductions made by Telstra Corporation Limited in areas where local call competition exists.

RECOMMENDATION 9.2 The Committee recommends that the Minister accept the general thrust of the Standard Telephone Service Review Group's Recommendations 1 to 16.

RECOMMENDATION 9.3 The Committee recommends that: a) the Telecommunications Bill 1996 be amended to bind the Telstra Corporation Limited to its existing commitment to provide 93.4 per cent of customers in Australia with access to a digital data capability by 1 July 1997 and establish further targets for extension of the availability of these services over the period to 1 January 2000; b) the Minister investigate the costs and benefits associated with prescribing reasonable access to digital data capability for all Australians by the year 2000 (pursuant to the Group's Recommendation 13), including a review of the appropriateness of making a carriage service providing a digital data capability a prescribed carriage service from 1 July 1998; c) the Minister, in consultation with industry, pursue self-regulatory or legislative measures to give effect to the Standard Telephone Service Review Group's recommendations in relation to quality of service and the funding of special telecommunications services and equipment for people with disabilities; and d) a broader review be undertaken in 2001 of the universal service arrangements (pursuant to the Group's Recommendation 15).

RECOMMENDATION 9.4 The Committee recommends that Standards Australia and consumer organisations work together to ensure that there is appropriate consumer representation on the Committee Standards Committee TE/7 - Human Exposure to Electromagnetic Fields, which is responsible for preparing AS 2772.1 - Radiofrequency Radiation Part 1: Maximum Exposure Levels - 100 kHz to 300 GHz .

RECOMMENDATION 9.5 The Committee recommends that a significant proportion of the \$4.5 million the Government has allocated to research into health issues associated with mobile towers and other communications devices and equipment be targeted to determining the necessity for a mandatory Australian Communications Authority standard on electromagnetic energy emissions to ensure safe levels of athermal radiation are not exceeded.

RECOMMENDATION 9.6 The Committee recommends that the Minister establish appropriate arrangements to ensure due regard is given to the impact of the introduction of new technologies on people with disabilities. In particular, these arrangements should include appropriate direction to the Committee on EME Public Health Issues (which administers the \$4.5 million radiofrequency electromagnetic energy program) to ensure adequate resources are directed towards research into digital interference with equipment used by the Deaf and hearing impaired.

RECOMMENDATION 9.7 The Committee recommends that where penalties of imprisonment are imposed by provisions in the package of legislation, a note should be included to advise readers of the effect of subsection 4B(2) of the *Crimes Act 1914*.

RECOMMENDATION 9.8 The majority of the Committee recommends that the 11 Bills in the telecommunications package be passed, subject to the amendments recommended by this Report and to the correction of any drafting errors which may be revealed during debate on the Bills.