

## CHAPTER 3

### TELECOMMUNICATIONS BILL 1996: PARTS 12 TO 35 (VOLUME 2)

#### Background

3.1 Volume 2 of the Telecommunications Bill 1996 (the Bill) contains Parts 12 to 35. These Parts contain:

- (a) a range of obligations for the benefit of the general community, including the provision of emergency call services (Part 12), protections for the privacy of communications and other information gained by persons in the course of supplying telecommunications services (Part 13), and obligations to cooperate with law enforcement agencies and disaster management planning (Parts 14 to 16);
- (b) a number of provisions which are intended to promote competition, including pre-selection arrangements (Part 17), provision of calling line identification capabilities (Part 18), Advanced Mobile Phone System (AMPS) phase-out arrangements (Part 19) and regulations regarding the international aspects of the telecommunications industry (Part 20);
- (c) provisions for technical regulation (Part 21) and the management of numbering and electronic addressing (Part 22); and
- (d) a range of general administrative and enforcement provisions (Parts 23 to 35).<sup>1</sup>

3.2 Recommendations for amendments have been made by the Committee in regard to Parts 12, 13, 14, 17, 21, 22, 25 and 26.

#### Emergency call services (Part 12)

3.3 Part 12 of the Bill sets out requirements for the provision of emergency call handling services. This Part provides for emergency call services, that meet community expectations, in a multi-carrier and carriage service provider environment. It requires the Australian Communications Authority (ACA) to

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<sup>1</sup> Explanatory Memorandum, Telecommunications Bill 1996, Vol 1, pp 5-9.

make a determination setting out the fundamental emergency call service requirements. A determination is a disallowable instrument.

### 3.4 The Explanatory Memorandum to the Bill notes that the:

determination would be expected to include, for example, requirements in relation to the way in which calls are transmitted through a carrier's or carriage service provider's network, the period within which calls must be answered and the form in which information about calls is transferred to emergency service organisations. The determination could also include other performance requirements and technical requirements for the transmission of calls to emergency service organisations.<sup>2</sup>

3.5 Some provisions directly related to the emergency call service arrangements are contained elsewhere in the Bill (for example, an 'emergency call service' is defined in clause 7 and clause 450 provides for 'emergency service numbers' to be specified under the numbering plan). A recommendation has been made in regard to clause 7 (in Chapter 2) and the Committee discusses emergency service number issues under clause 450 (later in this Chapter).

3.6 The Committee notes that a number of submissions included detailed discussion of the emergency call service arrangements. In particular, the National Emergency Calltaking Working Group (NECWG), which represents Australia's emergency service organisations (ESOs), detailed a range of concerns regarding the operation of the proposed legislation.

3.7 The NECWG recommended that the ACA determination regarding emergency call services be required to have regard to the following additional objectives:

- (a) that the calling party and calling line identification details be passed by the call service handling person to the appropriate ESO without delay;
- (b) that the emergency call service arrangements operate in such a way as to present a single systems image to both the public and the ESOs; and
- (c) that the emergency call service arrangements be kept current with the evolution of service capabilities being offered in the telecommunications industry.<sup>3</sup>

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2 Explanatory Memorandum, Telecommunications Bill 1996, Vol 2, pp 1-2.

3 National Emergency Calltaking Working Group, Submission 14, Vol 1, pp 96-97.

3.8 The Australian Telecommunications Users Group (ATUG) also made recommendations to clarify the operation of the provisions and to require that persons in control of customer equipment do not make adjustments to that equipment to prevent end user access to the emergency call numbers.<sup>4</sup> The Consumers Telecommunications Network (CTN) expressed similar concerns to the NECWG and ATUG.<sup>5</sup> The Government of Western Australia recommended that only carriers be declared a recognised person who operates an emergency call service, citing the need for carrier expertise in the front line of call taking.<sup>6</sup>

3.9 In evidence before the Committee, the Department of Communications and the Arts (DOCA) advised that:

In this area there does not seem to be any difference between the objectives that the government wishes to achieve and those which the industry and the gentlemen who are represented here at the table today [NECWG and ATUG] wish to achieve. It really is a question of what the best approach is...

The approach that is taken in the Bill is to provide some objectives which the ACA would take into account in establishing a determination which would set out the details of precisely how that works. Most of the issues that are raised—with the possible exception of the funding issue—really go to the question of whether the head legislation should have these objectives spelled out in detail or whether or not it is better to leave the detail to be worked out by the ACA through that instrument.<sup>7</sup>

3.10 The Committee concurs that the broad objectives reflected in the submissions received are appropriate and that unambiguous guidance should be given to the ACA in this regard. The Committee, also notes that the effect of the Legislative Instruments Bill 1996, currently before the Parliament, would be to require the ACA to review the operation of any instrument made under this Part at least every 5 years. It also notes that, in response to concerns made in submissions that a single, national service image should be established, DOCA advised:

The system ensures that the people making emergency calls have a perception of a single service but allows the flexibility for the

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4 Australian Telecommunications Users Group, Submission 41, Vol 3, pp 388-390.

5 Consumers Telecommunications Network, Submission 49, Vol 3, p 563.

6 Government of Western Australia, Submission 42, Vol 3, p 428.

7 Mr Anthony Shaw, First Assistant Secretary, Planning and Review Division, Department of Communications and the Arts, *Committee Hansard*, p 94-95.

different arrangements that states might wish to enter into to be accommodated within the legal framework.<sup>8</sup>

3.11 The Committee does not, however, consider that carriers are the only organisations with the capability or skills to operate an emergency call service. The Committee considers that given the serious consequences which flow from inappropriate handling of an emergency service call, the issue of who should operate such services requires careful consideration. The Committee considers that such a decision is appropriately a matter for the ACA to make in consultation with ESOs and the community.

#### 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.

3.12 CTN also recommended that extensive consultation with consumers be required before the ACA makes a determination regarding emergency call services.<sup>9</sup>

3.13 The Committee accepts that emergency call service arrangements are of direct interest to both the ESOs and the community generally. It believes the CTN recommendation in this regard should be adopted.

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8 Mr Anthony Shaw, First Assistant Secretary, Planning and Review Division, Department of Communications and the Arts, *Committee Hansard*, p 96.

9 Consumers Telecommunications Network, Submission 49, Vol 3, p 563.

## 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.

### *Funding of emergency call services*

3.14 In its submission to the Committee, the NECWG noted the absence of provisions relating to the funding of emergency call services. The Group recommended that a clear statement of principles be included to clarify that the funding of the emergency call service arrangements is a matter for the carriers, carriage service providers and emergency call service operators.<sup>10</sup> ATUG proposed that funds raised through the universal service regime be used to fund emergency call services.<sup>11</sup>

3.15 The Committee notes the concerns expressed by the NECWG and ATUG regarding funding of emergency call handling services.

3.16 In reference to the suggestion that the universal service funding arrangements be used to fund emergency call handling services, DOCA expressed the concern:

...that the service providers who are providing services where emergency calls need to be an integral part of them are not necessarily the same people who are contributing to the universal service fund. The universal service fund under the legislation is shared among the carriers—in other words, the owners of infrastructure—whereas a significant number of service providers would be providing services where emergency calls would be important. If it were to be funded under the USO, they would not be contributing directly.

The better approach and the approach taken within the Bill is the same as is followed for the Telecommunications Industry Ombudsman. There is a clear obligation put on the industry to provide this service. Under the Act they have to provide it and it is a matter for them as to how they fund it, just as it is a matter for the industry of how they fund the Telecommunications Industry

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10 National Emergency Calltaking Working Group, Submission 14, Vol 1, pp 96-97,

11 Australian Telecommunications Users Group, Submission 41, Vol 3, pp 388-390.

Ombudsman. They can then work out between them and the people who make most use of those services a charging system that is fair and equitable.<sup>12</sup>

3.17 The Committee holds the view that the funding of emergency call handling services should be more clearly addressed in the legislation. In particular, responsibility for funding these services should be borne by carriers and carriage services providers supplying the standard telephone service.

### 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.

### Protection of communications (Part 13)

3.18 Part 13 of the Bill provides for the protection of communications by means of provisions which create offences for the use or disclosure of certain information by carriers, carriage service providers, emergency call persons and their respective associates.

3.19 The Chairman of the New South Wales Privacy Committee submitted that:

A reading of the Bill suggests that its provisions apply to carriers and providers of digital services (electronic mail, electronic newsgroups and Internet access) just as much as to traditional voice communications. Typically, these services store communications data on hard disks or other semi-permanent storage medium. Traditionally, the content of communications is protected by the Telecommunications (Interception) Act, however the content of this digital information has no such protection. The

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12 Mr Anthony Shaw, First Assistant Secretary, Planning and Review Division, Department of Communications and the Arts, *Committee Hansard*, p 95.

importance of these new services makes it vital that they receive adequate protection in this Bill.<sup>13</sup>

3.20 The Acting Privacy Commissioner similarly stated that data messages are:

...in a sense, no different to the content of a telephone conversation, being information to which access is tightly regulated under the *Telecommunications (Interception) Act 1979*. It would be an anomaly if a regime for the use and disclosure of the content of certain kinds of communications was provided under the Telecommunications Act which was inconsistent with that provided for under the Interception Act.<sup>14</sup>

3.21 The Committee agrees with the proposition that stored data communications, including electronic mail and electronic news groups, ought to be dealt with under the Bill in a manner consistent with the treatment of voice communications under the *Telecommunications (Interception) Act 1979*.

#### 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.

3.22 Clause 267 of the Bill enables disclosure of information where an authorised officer has certified that the disclosure is reasonably necessary for the enforcement of the criminal law, a law imposing a pecuniary penalty, or for the protection of the public revenue. Clause 267(7) of the Bill defines agencies to which information can be disclosed under clause 267. The National Exchange of Police Information (NEPI) Board of Control stated that:

Increasingly, bodies such as NEPI will constitute an important means of efficiently delivering information to the prescribed law enforcement agencies. It should be recognised that NEPI's ability to deliver telecommunications related information to law enforcement personnel will be essential in the deregulated environment... [I]f the intention of Clause 267 of the Bill is to articulate the approved agencies, then 267(7) under "enforcement

13 New South Wales Privacy Committee, Submission 39, Vol 2, p 340.

14 Privacy Commissioner, Submission 25, Vol 2, p 229.

agency" should add point "(d) a National Common Police Service."<sup>15</sup>

3.23 The Committee considers that the proposal clarifies the intention of the legislation and should be accepted.

#### 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."

3.24 Clause 290 of the Bill sets out requirements in relation to the issuing, handling and retention of certificates made under clause 267. In its submission to the Committee, the New South Wales Privacy Committee suggested that:

To ensure that the certificates contain sufficient information for the Privacy Commissioner to make an adequate assessment, the content and design of those certificates should be determined by the Privacy Commissioner in discussion with the various agencies.<sup>16</sup>

The Committee considers that the responsibility for the form of the certificates ought to remain with the issuing authority, but believes that consultation with the Privacy Commissioner on the form of the certificates should be mandated in the Bill.

#### 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).

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15 National Exchange of Police Information Board of Control, Submission 48, Vol 3, p 552.

16 New South Wales Privacy Committee, Submission 39, Vol 2, p 342.



## National interest matters (Part 14)

3.25 Part 14 of the Bill requires the ACA, carriers and carriage service providers to give the authorities such help as is reasonably necessary for purposes including law enforcement. The NEPI Board of Control submitted that:

as a result of a policy statement by the Commonwealth Government and as a statement in the carriers licence conditions, carriers are required to supply legitimate Police requests for information on a "not-for-profit" basis... It is our view that the current principle of recovering only the cost of the provision of services should continue.<sup>17</sup>

The Committee agrees with the view that carriers and carriage service providers should continue to be required to provide such assistance on a "not-for-profit" basis.

### 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.

## Pre-selection (Part 17)

3.26 Part 17 of the Bill establishes requirements for pre-selection. Pre-selection is intended to facilitate competition by enabling customers to choose their preferred carriage service provider and change that preference from time to time, or make use of over-ride dial codes to choose a different carriage service provider on a call-by-call basis. This is important to facilitate the development of competition in the supply of telecommunications services.

3.27 The legislation requires the ACA to set a minimum requirement of pre-selection in relation to calls made using a standard telephone service (other than public mobile telecommunications services).

3.28 It is intended that this determination will apply at least to end users' requirements for domestic long-distance and international calls. A

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17 National Exchange of Police Information Board of Control, Submission 48, Vol 3, p 552.

discretionary power is also conferred on the ACA to extend pre-selection obligations to other services having regard to considerations of the technical feasibility of the obligation and the costs and benefits associated with the obligation.<sup>18</sup>

3.29 A number of submissions recommended that the legislation extend the minimum pre-selectable services. ATUG and AAP Telecommunications recommended that the pre-selection requirements extend to calls made from a fixed service to a public mobile telecommunications service<sup>19</sup>. AAP Telecommunications noted that the failure of service providers to be able to offer pre-selection for calls to mobile services results in limited choices for fixed network customers and limitations on the ability of competitors to offer a broad range of services.

3.30 Global One Communications recommended that the ACA be required to provide for the separate pre-selection of an end-user's domestic long distance requirements and their international requirements. The submission notes that:

...permitting market entrants to specialise in market segments where they have expertise and can offer added value is economically efficient.<sup>20</sup>

3.31 In response to the suggestion that calls made from a fixed service to a public mobile service be pre-selectable, Telstra noted:

The prime principle behind pre-selection is that the preselected carrier (or service provider) must add value to the end user of the service being preselected. This is the case for international and long distance where the preselected carrier provides either trunk transmission or international termination. In the case of fixed to mobile calls pre-selection would not add this value, calls would merely be handed over to the preselected network which would then hand them on to the mobile network. This is adding an additional and inefficient level of handling to the call.<sup>21</sup>

3.32 The Committee accepts that pre-selection rights should be extended where such extension has a net benefit for the public interest. Pre-selection removes a highly significant barrier to entry to many telecommunications

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18 Explanatory Memorandum, Telecommunications Bill 1996, Vol 2, pp 24-26.

19 Australian Telecommunications Users Group, Submission 41, Vol 3, p 402; AAP Telecommunications, Submission 44, Vol 3, p 515.

20 Global One Communications, Submission 66, Vol 4, p 708.

21 Telstra Corporation Ltd, Submission 43b(S), Vol 4, p 795.

markets - that is, customer inability to remember multiple-digit access codes - and is therefore a vitally important means of stimulating competition.

3.33 With the evidence before it, however, the Committee was unable to conclusively determine whether the extension of pre-selection obligations would have a net benefit for the public interest. It is of the view that the costs, benefits and technical feasibility of the implementation of extended pre-selection rights are complex matters most appropriately dealt with by the ACA. It notes and welcomes the indication in the Explanatory Memorandum to the Bill that multi-basket pre-selection would be a matter which may be considered by the ACA, having regard to the relevant criteria.<sup>22</sup>

3.34 The Committee notes that the effect of clause 334(8) may be to prevent any extension of pre-selection obligations to calls to or from public mobile telecommunications services. It considers that this should be a matter for judgement by the ACA under the power conferred by clause 334(2).

#### 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.

#### **Technical regulation (Part 21)**

3.35 Part 21 of the Bill establishes a scheme for the technical regulation of telecommunications. The fundamental policy approach reflected in the scheme is to rely primarily on industry self-regulation with the regulatory body empowered to intervene where it is considered necessary for limited purposes relating to ensuring certain safeguards are maintained.

3.36 The ACA is given the power to make technical standards about customer equipment and customer cabling that is connected to public networks or facilities, but the ACA is restricted to matters which are inappropriate for self-regulation, namely:

- (a) protecting:

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22 Explanatory Memorandum, Telecommunications Bill 1996, Vol 2, p 26.

- (i) the integrity of a telecommunications network or a facility; or
  - (ii) the health and safety of persons who are likely to be affected by the operation of a telecommunications network or a facility;
- (b) ensuring that customer equipment can be used to give direct access to an emergency service number;
- (c) ensuring, for the purpose of the supply of a standard telephone service in fulfilment of the universal service obligation, the interoperability of customer equipment with a telecommunications network to which the equipment is proposed to be connected; or
- (d) achieving an objective specified in the regulations.<sup>23</sup>

3.37 The ACA is also given limited powers to make standards relating to the interconnection of networks and facilities, and powers to make standards for customer equipment designed to cater for the needs of persons with disabilities.

3.38 The connection of customer equipment or customer cabling to a telecommunications network or facility will be controlled through a labelling scheme. Where a person wishes to connect an item of customer equipment or cabling that has a label indicating compliance with a relevant standard, the operator must not refuse to consent to the connection. However, an operator of a network will be able to disconnect customer equipment or cabling where the operator genuinely believes the connection is or would be a threat to health and safety or to the integrity of the network.

3.39 The licensing regime for cabling installers will remain largely unchanged from that under the *Telecommunications Act 1991*.

#### *Procedures for making technical standards, disability standards and connection rules*

3.40 In its submission to the Committee, Telstra noted that clauses 363, 367 and 389 of the Bill, which provide for procedures for making technical standards, disability standards and connection rules respectively, do not include a timeframe for interested persons to make representations regarding those standards. Telstra recommended providing a 60 day period for this process.<sup>24</sup>

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23 Explanatory Memorandum, Telecommunications Bill 1996, Vol 2, pp 36-37.

24 Telstra Corporation Ltd, , Submission 43, Vol 3, p 491.

3.41 The Committee notes the importance of industry and consumer input into technical and disability standards and connection rules and supports this suggestion.

#### 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.

### **Numbering of carriage services and regulation of electronic addressing (Part 22)**

3.42 Part 22 of the Bill provides for the regulation of numbering and electronic addressing in relation to carriage services. It requires the ACA to make a numbering plan for the numbering of carriage services in Australia and the use of numbers in connection with the supply of such services.

3.43 In addition to the recommendations below, the Committee has made a recommendation in regard to transitional arrangements for numbering in Chapter 6.

#### *Number portability*

3.44 Clause 439 requires the ACA to prepare a numbering plan for carriage services. Clause 439(5)(d) provides that the numbering plan *may* set out rules about the portability of numbers. The Explanatory Memorandum to the Bill notes that portability, in this context, refers to:

the ability for a customer of a carriage service provider to change their carriage service provider but retain the same telephone number.<sup>25</sup>

3.45 Lack of number portability is a major barrier to entry to telecommunications markets, in particular the local telephony market. Lack of number portability discourages customers from transferring from one service provider to another for a wide variety of reasons, including the costs of

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25 Explanatory Memorandum, Telecommunications Bill 1996, Vol 2, p 71.

changing letterhead and other stationery, and changing Yellow Pages and other advertising. Number portability is therefore necessary for effective competition in telecommunications markets. In evidence before the Committee, Optus Communications/Optus Vision (Optus) tabled extracts from two economic analyses which concluded that net benefits flow to the economy through number portability.<sup>26</sup>

3.46 Clause 442 prevents the ACA from including in the numbering plan any rules about number portability unless directed to do so by the Australian Competition and Consumer Commission (ACCC). ATUG stated that:

There is a concern that number portability, at least within the local exchange area, is of such significance that it should not be included in the legislation as a matter for the discretion of the ACCC. Rather, the legislation should make number portability within local exchange areas a mandatory requirement under the number plan. Number portability across local exchange areas should remain a matter for investigation and consideration by the ACCC.<sup>27</sup>

Optus, CTN and the Government of Western Australia also submitted that number portability should be mandated in the Bill.<sup>28</sup>

3.47 Telstra on the other hand stated that:

the current legislation has it right. ... the worst possible thing would be to say that for every service there is going to be portability if that is just going to increase the net cost to all the players. Portability should be introduced, as the legislation says, when there is a long-term benefit to end users, not as a given.<sup>29</sup>

3.48 Optus submitted that:

The technology to introduce LNP [Local Number Portability] on an interim basis already exists .... However Optus has not been able to agree an arrangement with Telstra for the allocation of costs.<sup>30</sup>

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26 STM Consulting, *Study of consumer benefits of number portability: Final Report*, conducted for AUSTEL, July 1995, tabled in public hearing on 18 February 1997; The Office of Telecommunications, United Kingdom, *Cost-benefit analysis of number portability*, January 1994, tabled in public hearing on 18 February 1997.

27 Australian Telecommunications Users Group Ltd, Submission 41, Vol 3, p 406.

28 Consumers Telecommunications Network, Submission 49, Vol 3, p 565; Government of Western Australia, Submission 42, Vol 3, p 428; and Optus Communications/Optus Vision, Submission 40, Vol 2, p 376.

29 Mr Peter Darling, Group Regulatory Manager, Telstra, *Committee Hansard*, 29 January 1997, p 29.

30 Optus Communications/Optus Vision, Submission 40, Vol 2, p 376.

3.49 The Committee considers that, at least in regard to local number portability, the barriers to portability lie as much in the difficulties the carriers have had in reaching commercial agreement about cost allocation as in technological problems. It also notes that the determination of whether there is a net benefit in requiring portability for particular services is a complex issue most appropriately addressed by the ACCC. The Committee considers, however, that the net benefits of number portability are potentially substantial, and therefore the legislation should require the ACCC to determine where portability should be established.

#### 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.

#### *Public consultation on draft numbering plans*

3.50 Clause 444 of Part 22 of the Bill requires the ACA to engage in specified public consultation processes on a draft of a numbering plan, or on a proposed variation to the plan. Telstra suggested a minor amendment to provide the ACA with some flexibility to engage in other forms of consultation, for example informal consultations with industry, in addition to full public consultation. The Committee considers the suggestion sensible and recommends that it be adopted.

### 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.

#### *Emergency call numbers*

3.51 Clause 450 of the Bill provides that numbers may be identified in the numbering plan for use in connection with emergencies that are likely to require the provision of assistance by police, fire, ambulance or emergency services specified in the plan. The clause provides that the numbering plan may specify different numbers for use in different areas or in connection with different types of services.

3.52 The NECWG and Government of Western Australia recommended that clause 450 be amended to reflect the objective that a single, national emergency call number be achieved.<sup>31</sup>

3.53 The Committee notes the broad agreement from witnesses before it that a single national emergency call number is a desirable objective.<sup>32</sup> The Explanatory Memorandum to the Bill makes it clear that this is the intention of legislation by stating that:

It is intended that there should not be a proliferation of emergency service numbers.<sup>33</sup>

The Committee also notes, however, evidence presented before it that for technical and other reasons the achievement of a single emergency call number is impractical in the immediate future. The Committee is strongly of the view that the Minister and the ACA should adopt the objective of achieving a single national emergency call number as soon as possible.

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31 National Emergency Calltaking Working Group, Submission 14, Vol 1, p 95; Government of Western Australia, Submission 42, Vol 3, p 429.

32 In evidence before the Committee, Mr Anthony Shaw, First Assistant Secretary, Planning and Review Division, Department and Communications and the Arts (*Committee Hansard*, p 96) and Mr Allan Horsley, Managing Director, Australian Telecommunications Users Group (*Committee Hansard*, p 97) also endorsed the objective of a single national emergency call number.

33 Explanatory Memorandum, Telecommunications Bill 1996, Vol 2, p 78.



3.54 Recommendations regarding emergency call services are made in relation to clause 7 (Chapter 1) and Part 12 (earlier in this Chapter) of the Bill.

### **Public inquiries (Part 25)**

3.55 Part 25 of the Bill enables the ACA and the ACCC to conduct public inquiries in connection with certain matters relating to telecommunications. Public inquiries may be conducted either on the initiative of the ACA or the ACCC or following a request from the Minister.

3.56 Clause 474 of the Bill requires the ACA to provide a reasonable opportunity for any member of the public to make a written submission to it about the matter to which a public inquiry relates. The clause further provides that any member of the public who, in good faith, makes a statement or gives a document or information to the ACA in connection with a public inquiry will not be liable to any defamation action or other civil proceedings.

3.57 Baulkham Hills Shire Council submitted that 'a reasonable opportunity' should be replaced with, or specified as, a minimum of 28 days from the date of public notification of the inquiry.<sup>34</sup>

3.58 The Committee concurred with the Shire Council's assessment that 28 days from the date of public notification represented the minimum amount of time in which a member of the public should be required to provide written submissions to the ACA about the matter to which a public inquiry relates.

#### **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.

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34 Baulkham Hills Shire Council, Submission 26, Vol 2, p 243.

## Investigations (Part 26)

3.59 Part 26 of the Bill provides that the ACA will be able to investigate certain matters relating to telecommunications, such as suspected contraventions of the Act, on its own initiative or in response to written complaints made to the ACA. The ACA will be required to investigate any matter concerning carriage services or the telecommunications industry if requested to do so by the Minister.

3.60 Clause 501 of the Bill provides for ACA reports about investigations conducted under clauses 494(1) and (3) to be published at the ACA or Minister's discretion respectively. However, clause 501(4) provides that the ACA is not required to publish, or to disclose to a person to whose affairs it relates, a report about an investigation, or part of such a report, if the publication or disclosure would disclose confidential material or be likely to prejudice a person's fair trial.

3.61 In its submission, the New South Wales Privacy Committee suggested that clause 501(4) was:

not broad enough to cover all information which people may have reasonable grounds to keep private. For example, names and addresses are not necessarily confidential information.

[Accordingly, the Committee suggested] ...that another [paragraph] (similar to clause 41 of the *Freedom of Information Act 1982*) be added to [sub]clause 501(4) which would read:

(c) *involve the unreasonable disclosure of personal information about any person (including a deceased person).*<sup>35</sup>

3.62 The Committee agreed with the Privacy Committee that it was appropriate for the ACA to be able to exempt certain material from an investigation report if it included non-confidential personal information about any person.

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35 The New South Wales Privacy Committee, Submission 39, Vol 2, pp 342-3.

### 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).