

the changes which are on the horizon. New or improved services, now available through advances made in electronics and developments in communications carrier systems, can aid society in the pursuit of learning and leisure. What I see as the main challenge is to develop the legal framework which will encourage institutions to take advantage of the new technologies, but will also see that the interests of the consumer are protected where this is necessary."

"There will be a heavy responsibility placed on those who have professional skills in communications law and an interest in this challenging field", the Minister concluded.

Telecom in the 80's

Telecom Australia, having provided the Australian community with an information system amongst the world's best, now faced the challenge of traumatic change, Mr Bill Mansfield, Federal Secretary of the Australian Telecommunications Employees Association, told an ACLA luncheon in Sydney on 28 July.

He said the communications system of tomorrow would be significantly different to today, but the changes would be an extension of today and not a communications system which was fundamentally different.

"For business and commerce we are looking at systems which provide voice, data, facsimile and video facilities", Mr Mansfield said. He continued:

"The transmission costs for broad band systems are falling in real terms. In the future, advances in digital switching and transmission systems will result in a decrease in the cost of these systems."

"The ability of Telecom to continue to provide services to the community in an equitable manner at prices

most can afford will depend on two key factors:

- Firstly, the maintenance of the arrangements whereby Telecom continues to be essentially the sole provider of long distance circuits.
- Secondly, the attitude of Government towards Telecom being allowed to expand its services to take account of new technological developments."

"The present prospects are that in both areas Telecom will experience changes which will be to its disadvantage and to the disadvantage of the majority of users of the national telecommunications system."

"A feature of virtually all national telecommunications networks to date has been the transfer of profits from high revenue areas to areas of loss, so that costs are held down and services brought within the reach of a larger group in the community."

"In Australia, several areas incur annual financial losses. Rural telephone services, the public telegram service and public telephones suffer losses of around \$290 million each year."

"The losses in these areas are subsidised by profits from the long distance communications area. This transfer is referred to as a cross subsidy. In commenting on the areas where profit was made Telecom's 1980/81 report stated:

'On a geographic basis, the main profit centre was the coastal strip from Brisbane through Sydney and Melbourne to Adelaide.

On a service basis, trunk calls, particularly the high volume, high growth, inter-capital calls were easily the most important generators of profit.'

"Telecom has estimated that if its ability to cross subsidise the areas of financial loss is seriously reduced there will inevitably be increases in charges."

"The position of the entrepreneurs

who wish to get into the telecommunications area is not one of social equity or universal service. It can be called a preoccupation with the profits to be made from exploiting the vulnerable position of a service oriented industry."

"The entrepreneurs are not interested in providing a public telegram service, although they are attracted to the public telex service. The national responsibility of providing a domestic switching network infrastructure is avoided whilst the lucrative long distance traffic is eagerly sought after."

"The question remains as to whether the private interests will achieve their ambitions. The Davidson Inquiry is considering the positions which will be recommended to Government. However the vested interests which are seeking change are powerful. Publishing and Broadcasting, IBM, Myers and others have demonstrated their power and influence in the past."

Mr Mansfield said there was a serious risk that Telecom's role as the exclusive provider of public long distance communications would be lost. He continued:

"The second key issue to the future of Telecom is its ability to enter into new growth areas. There is a range of new technology applications which are open to be utilised."

"The key areas of future growth are in the non-voice areas of telecommunications. Quoting from an Arthur D. Little study, McKinsey and Company in a 1981 report stated that growth in voice-based products in the US was expected to be about 4 - 6 per cent p.a. while non-voice areas such as facsimile, data and cable TV was expected to be 10 - 25 per cent p.a."

"The present Government has rejected several of Telecom Australia's attempts to enter new growth areas. These initiatives have included approaches for Telecom to be permitted to supply services such as facsimile machines, telephone answering machines, and videotex services. Telecom has also tried to

obtain permission to market and supply under 50 line private automatic branch exchanges. Each of these initiatives has either been rejected by Government or not responded to. Each was designed to give Telecom competitive rights in the sought after area and not monopoly powers."

"The reasons why Telecom Australia was refused entry to the markets listed above appear to be political and ideological rather than a rational assessment of what the future requires for a viable and dynamic Australian communications enterprise."

"The Videotex decision, which was made public late in 1981, provides the best opportunity to examine the current Government's commitment to the future viability of Telecom Australia and the provision of new services in a manner which optimises their value to the entire community."

"Videotex is a communications system which allows centrally stored information to be interrogated, selected and transmitted via telephone lines for display on a screen monitor or television set. Over about three years Telecom Australia investigated the possibilities of a Videotex system for Australia. During 1980 Telecom formally proposed to the Minister, Mr Sinclair, that Telecom be permitted to enter the Videotex market as a supplier of the British Telecom-developed Prestel system."

"The proposal of Telecom Australia was made only after a long, expensive and detailed investigation: four overseas visits by Telecom experts examined the alternative systems; Telecom Research Laboratories experimented with Videotex techniques; and, a marketing strategy was developed and a team of technical and commercial specialists put together."

"Telecom's proposal was detailed to the Minister on 9 January 1981."

"In the correspondence, some of the points made were:

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Examples of other interests given protection are: the Australian Broadcasting Commission in relation to its program material; and the Department of Defence in relation to documents in respect of activities of the Defence Signals Directorate and the Joint Intelligence Organisation. These provisions and the retention of a large number of secrecy provisions in other Commonwealth legislation (these are currently under review) represent major inroads on the principle of freedom of information.

COMMENCEMENT AND ACCESS TO PRIOR DOCUMENTS

Despite criticism, the legislation sets no specific date for commencement. The Government has promised that the law will come into operation on 1 December 1982.

Furthermore, agencies are given an additional 12 months after commencement to comply with the requirements in relation to indexes, directories and manuals.

Most importantly, it will normally not be possible to obtain access to documents brought into existence prior to the commencement date (s12(2)). This rule is subject to two significant qualifications: personal records which came into existence not more than 5 years before the date of commencement must be released if requested (as noted earlier) and documents reasonably necessary to enable a proper understanding of the principal accessed must be released (ss12(2)(a) and (b)).

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- Prestel was the only Videotex technology developed to the point where a public commercial system was in operation.
- Telecom would maximise private enterprise involvement in the provision of Videotex. It was estimated that over 80 per cent of employment and earnings from Videotex would have been outside Telecom.
- Public ownership of the Videotex system would ensure a national service being established. It would avoid the potential for conflict of interest between commercial owners of a system and users and it would also encourage the partial use of the system for reasons based upon social need rather than strictly profit-potential considerations. Telecom proposed unit fee access to the central computer for subscribers wherever they resided."

"Telecom's proposal meant only a small amount of capital would need to be expended to commence commercial operation of the Videotex system. This was estimated in the first year to be less than \$2 million out of total capital expenditure of around \$1100 million. Telecom, therefore, proposed to provide a new communications service to the Australian community in a manner which maximised private enterprise involvement and also took account of the national interest."

"Telecom's submission was opposed by certain private interests. In particular, it was reported that the media giant, Publishing and Broadcasting Ltd, and the retailers, Myers, were lobbying for the Minister to reject Telecom's proposals. Both organisations are members of BTS."

"On October 16, 1981, Mr Sinclair announced that Telecom had been refused permission to provide a Videotex service."

"Two days prior to the Minister's announcement, the Publishing and Broadcasting representative in the United Kingdom had passed information to British Telecom (BT) to the

effect that Telecom was not going to be permitted to enter the Videotex market."

"This communication led to a telex inquiry from BT to Telecom Australia requesting a statement of the current position. When the telex was received Telecom Australia had no knowledge of the Government decision and only later did Mr Sinclair inform Telecom Australia, the public enterprise he was responsible for, that its request to introduce a new service had been rejected."

"Despite criticisms of Telecom's exclusion from the Videotex area the Minister maintained his position. As a consequence, the team of technical and commercial specialists put together by Telecom had to be broken up and re-located on other functions - and the initiatives which Telecom had taken in establishing a marketing plan have been for naught."

"There have been other instances of Telecom attempting to expand its range of services. On a number of occasions these have been stopped by the Minister of the day, due to 'pressure' being applied from the private interests affected."

"If Telecom is not permitted to move into new growth areas and the long distance area is reduced in value and importance Telecom could essentially become a switcher, providing the expensive infrastructure for those with the financial ability to pay for a service."

"With the combination of political forces hostile to the public sector and profit-motivated private interests, the potential exists for a turnaway from the values of the past with their emphasis on social equity and universal service. Those most at risk in the changes which may come are lower-income earners and residents in localities where costs of delivering telecommunications are high. The broader issue of access to information will also be of concern. If the future delivery of information is to be based solely on ability to pay, rather than social needs, the divisions within our society will grow larger."

"The example of Videotex is relevant as an illustration of the approach of a public service compared to a private provider."

"In the Telecom 2000 report it was suggested that Telecom should:

'Plan the introduction of new types of telecommunications services in ways that will support social equity, so that the distribution of telecommunications services does not worsen the position of deprived segments within society, reinforcing the power of the information elite.'

"Do we believe that the brave new world of competition in telecommunications will put forward similar objectives and values?"

"The telecommunications system is in a period of transition. The questions remain whether it will be able to service the needs of the community for a cheap, reliable modern and universal service: this has been the record of performance in the past."

"Any major change along the lines proposed by the BTS group can only weaken its ability to do so in the future", Mr Mansfield concluded.

Correction

As readers will be aware, Communications Law Bulletin Vol 2 No 3 contained only a summary of the Australian Broadcasting Tribunal's Recommendations on Cable TV. Lack of space precluded a summary of the Recommendations of RSTV (Recommendations 40-76), which appear at ps34-44 of Vol I of the Tribunal's Report. The Report has now been published.