

1983-84

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 29 February 1984

(Minister for Communications)

A BILL

FOR

An Act relating to the national telecommunications satellite system

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

Short title

1. This Act may be cited as the *Satellite Communications Act 1984*.

5 **Commencement**

2. This Act shall come into operation on the day on which it receives the Royal Assent.

Interpretation

3. In this Act, unless the contrary intention appears—

10 “Aussat” means AUSSAT Pty Ltd, being a company incorporated on 6 November 1981 under the law in force in the Australian Capital Territory;

“Aussat satellite” means a space satellite used by Aussat in carrying on its business;

“Australia”, when used in a geographical sense, includes—

- (a) the external Territories; and
- (b) installations in areas that are adjacent areas within the meaning of the *Petroleum (Submerged Lands) Act 1967*;

“Commission” means the Australian Telecommunications Commission established by the *Telecommunications Act 1975*; 5

“neighbouring regions” includes, without limiting the generality of the expression, Papua New Guinea and other places in the South-West Pacific area;

“satellite earth station” means a device for the transmission of signals from the earth to a space satellite or for the reception on the earth of signals transmitted from a space satellite; 10

“space satellite” means an apparatus placed in geostationary orbit relative to the earth for use as part of a telecommunications system.

Operation of Act 15

4. This Act applies both within and outside Australia and extends to every external Territory.

Application

5. This Act applies in relation to Aussat notwithstanding anything in the Memorandum of Association or the Articles of Association of Aussat, but this Act shall not be construed as affecting the operation of any provision of the Memorandum of Association or Articles of Association of Aussat that is capable of operating concurrently with this Act. 20

Primary object of Aussat

6. (1) It is the intention of the Parliament that Aussat have as its primary object the carrying on of the business, in accordance with sound commercial principles, of providing— 25

- (a) a telecommunications system for Australia by the use of space satellites; and
- (b) space satellite facilities for use in telecommunications systems for neighbouring regions. 30

(2) If the Memorandum of Association of Aussat does not provide that the principal object of Aussat is the object specified in sub-section (1), the Memorandum of Association shall be deemed so to provide and the Directors of Aussat and all other persons shall act accordingly. 35

National telecommunications network

7. It is the intention of the Parliament that the telecommunications system provided by the Commission and the telecommunications system provided by Aussat by the use of space satellites will provide the national telecommunications network for Australia. 40

Obligations of Directors of Aussat

8. (1) The Directors of Aussat shall ensure that, so far as practicable, Aussat is able to meet the requirements for space satellite facilities—

- (a) of the Commonwealth for the purpose of the provision and maintenance of air navigation facilities and related safety services;
- (b) of the Australian Broadcasting Corporation for the purpose of the provision by the Corporation of television and broadcasting services to remote communities and dwellings; and
- (c) of the Commission for the purpose of the provision of telephonic services in remote areas and of emergency services.

(2) The Directors of Aussat shall, in the performance of their duties—

- (a) have regard to, and endeavour to give effect to, the intention of the Parliament expressed in section 7; and
- (b) have regard to, and endeavour to comply with, the obligations of Australia under international law.

Aussat not required to provide services without reward

9. Nothing in this Act or in any other Act shall be read as requiring Aussat to allow the use by any person of facilities in an Aussat satellite, or to provide any other facilities or any services to any person, without adequate payment to, or other adequate reward for, Aussat.

Aussat not to be public company

10. Aussat is not capable of being converted to a public company.

Shares in Aussat

11. (1) Shares in Aussat are not capable of being held by any person other than—

- (a) the Commonwealth;
- (b) the Commission; or
- (c) a person as trustee for the Commonwealth.

(2) Shares in Aussat shall not be issued or sold to the Commission except with the approval of the Minister.

(3) The number of shares in Aussat held by the Commission at any time shall not exceed 25% of the issued shares in Aussat at that time.

(4) Where the Commission holds shares in Aussat, the Commission shall not give a proxy in relation to any of those shares to any person for valuable consideration.

(5) Each share in Aussat shall be issued with the same rights and restrictions with regard to voting.

(6) Any issue or sale of shares, or any arrangement or agreement, that is contrary to this section is void and of no effect.

Winding up of Aussat

12. Aussat is not capable of being—

- (a) voluntarily wound up; or
- (b) wound up under an order of the Supreme Court of the Australian Capital Territory on an application made, whether alone or otherwise, by Aussat or a person referred to in sub-section 11 (1) (whether in the capacity of the person as a creditor of Aussat or otherwise),

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except in accordance with a resolution passed by each House of the Parliament.

Aussat not to provide certain services

13. Nothing in this Act shall be read as authorizing the provision by Aussat of—

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- (a) services of a kind known as public switched telephone services; or
- (b) services of a kind known as public switched data services.

Installations incidental to satellite services

14. (1) Subject to any law of the Commonwealth providing for licences or permits in relation to telecommunications installations, Aussat or a person entitled to use facilities in an Aussat satellite may erect, maintain or operate a telecommunications installation that is necessary or desirable for the use of such facilities, including a telecommunications installation for the transmission of signals between a satellite earth station and premises owned or occupied, and used, by Aussat or the person, as the case may be.

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(2) In this section, “telecommunications installation” has the same meaning as it has in the *Telecommunications Act 1975*.

Disclosure of contents of telecommunication messages

15. (1) Subject to this section, a person who is or has been a Director, or an officer or employee, of Aussat shall not divulge or communicate to any person, or make use of or record, the contents or substance of a message or other communication received or transmitted by, or intended for transmission by, Aussat by means of a telecommunication, being a message or other communication that came to his knowledge or to which he had access by reason of his position as a Director, officer or employee of Aussat.

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Penalty: Imprisonment for 2 years.

(2) Sub-section (1) does not prohibit the doing of any thing by a person—

- (a) in the performance of his duties as a Director, officer or employee of Aussat;
- (b) as a witness summoned to give evidence or to produce documents in a court of law;
- (c) in pursuance of the requirements of a law of the Commonwealth or a Territory; or
- (d) in other prescribed circumstances, being circumstances in which the doing of the thing was in the public interest.

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Right to send signals to Aussat satellite

16. (1) A person shall not, without reasonable excuse, transmit a signal to an Aussat satellite otherwise than in accordance with—

- (a) an agreement between Aussat and the person; or
- 5 (b) approval given by Aussat.

Penalty:

- (a) if the offender is a natural person—\$10,000; or
- (b) if the offender is a body corporate—\$50,000.

10 (2) Where an agreement between Aussat and a person (in this sub-section referred to as the “authorized user”) gives the authorized user the right to transmit signals to an Aussat satellite—

- (a) that right is incapable of being sold or otherwise disposed of by the authorized user to another person; and
- 15 (b) it is a term of the agreement that Aussat may terminate the agreement if the authorized user offers, or purports, to sell or otherwise dispose of that right under the agreement to another person.

Aussat satellite facilities not to be used for certain businesses

17. (1) Subject to the regulations, a person, other than Aussat or an eligible person, shall not use a facility in an Aussat satellite for the purpose of carrying on a business of providing facilities for telecommunication between other persons.

Penalty:

- (a) if the offender is a natural person—\$10,000; or
- (b) if the offender is a body corporate—\$50,000.

25 (2) Sub-section (1) shall not be read as authorizing the making of regulations that would increase a penalty provided for by that sub-section.

(3) In this section, “eligible person” means—

- (a) the Commission;
- (b) the Australian Postal Commission;
- 30 (c) the Overseas Telecommunications Commission; or
- (d) a person declared by the regulations to be an eligible person for the purposes of this section.

Regulations

18. (1) The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters—

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act or for carrying out the objects of Aussat.

(2) Without limiting the generality of sub-section (1) but subject to any agreement (including a treaty or convention) between Australia and a foreign country or foreign countries, regulations may be made—

- (a) prescribing matters relating to the use of relevant facilities;
- (b) prohibiting the sending by a satellite service provided by Aussat of indecent, obscene or offensive communications, or the use of such a service for the purpose of harassing a person; and 5
- (c) prescribing penalties by way of a fine not exceeding \$1,000 for offences against the regulations.

(3) The limitation imposed by paragraph (2) (c) on the penalties that may be prescribed by the regulations does not prevent the regulations from requiring a person to make a statutory declaration. 10

(4) In this section, “relevant facility” means—

- (a) an Aussat satellite;
- (b) a facility in an Aussat satellite; or 15
- (c) a satellite earth station that transmits signals to, or receives signals from, an Aussat satellite.

