

BROADCASTING (NATIONAL METROPOLITAN RADIO PLAN) ACT 1988

The Committee noted in Alert Digest No. 15 of 1988 (9 November 1988) an aspect of the Broadcasting (National Metropolitan Radio Plan) Bill 1988.

The Bill was assented to on 26 December 1988 and the Committee received a response to its comments from Mr R. Willis the Minister for Transport and Communications dated 9 January 1989.

The Act amends the Broadcasting Act 1942 to implement stage one of the National Radio Plan. The plan provides further commercial FM radio licences in mainland capital cities, and also establishes AM networks for Parliamentary and Print Handicapped Broadcasting. The Act at the initial stage invited AM licencees to convert to FM frequencies.

The Committee noted that clause 4 of the Bill (subsection 89 DAN(1) of the Principal Act) gave the Minister a discretion to determine whether licence bids are affected by collusion. The discretion was not reviewable as to merits by the Administrative Appeals Tribunal but only as to legality under the Administrative Decisions (Judicial Review) Act 1977.

The Committee noted that the clause may breach principle 1(a)(iii) as a non-reviewable decision.

The Minister states that his power is limited to deciding that bids have been affected by collusion between licencees. Once the Minister makes this decision he is then able to determine that fresh applications for tendering be published in the area covered by the licence. The view of the Minister is that merely restarting the tendering process need not be subject to AAT review.

The Minister's response is at Attachment B.