



## **Media Release**

*3 June 2015*

### ***Bell Group Companies***

### ***(Finalisation of Matters and Distribution of Proceeds) Bill 2015***

The Western Australian Bar Association and the Australian Bar Association are concerned about four aspects of the *Bell Group Companies (Finalisation of Matters and Distribution of Proceeds) Bill 2015* (the "Bill") introduced into the Western Australian Parliament on 6 May 2015.

The first is that the Bill seeks to prevent the currently applicable corporations legislation from applying to The Bell Group Ltd ("TBGL") and its subsidiaries. The Bill seeks to remove the distribution of TBGL's property from the existing, applicable legislation and place it with a government appointed Administrator.

The second is that under the currently applicable corporations legislation the determination of rights to the property of TBGL is within the power of courts. The Bill removes this and places the determination of rights wholly within the power of the State Executive Government. The Executive is not required to follow the otherwise applicable corporations legislation in making any determination. The Executive is not required to provide any reasons for its decisions and is not required to give any party procedural fairness in that determination. The Bill provides for very limited review of the determinations made by the Executive.

The third is that each of the above measures is intended to operate to alter the law which has been in force during the course of the Bell litigation. The Bill has, effectively, retrospective application. Indeed, by way of example, the Bill provides that certain agreements entered into previously are now void, and are taken to have always been void.

The fourth is that the Bill creates apparently wide ranging offences (with significant penalties) which may criminalise any legal challenge to the validity of the Bill if it is enacted. For example, it appears that a person, including a lawyer, who seeks to overturn the legislation in a court may be guilty of taking a course of action for the purpose of defeating the Bill, and so become liable to a fine of \$200,000 or imprisonment for five years, or both.

Each of the above matters is concerning as it represents the overturning of existing rights and the by-passing of established legislation and the position of the courts. Rather, the Bill replaces them by Executive processes which erode the rule of law, and are conducted without transparency and without the protections which the law currently provides.

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