



The Secretary,  
Senate ECITA Reference Committee  
Parliament House  
Canberra ACT 2600  
ecita.sen@aph.gov.au

April 2005

**Re: Inquiry into the Performance of the Australian Telecommunications  
Regulatory Regime.**

Dear Secretary,

Thank you for providing the opportunity to present a submission to the Senate Inquiry into the Performance of the Australian Telecommunications Regulatory Regime. As a result of the short time frame preparing this submission, our comments relate non-specifically to terms of reference (d), (e), (f), (g) and (k).

**Introduction**

The Consumers Telecommunications Network (CTN) congratulates the Senate ECITA Reference Committee for addressing this important area of public policy debate which must be resolved before further privatisation of Telstra can be seriously addressed.

We offer these comments as a national peak body of consumer and community organisations, and of individuals representing community interests, who participate in developing national telecommunications policy. CTN advocates policies for better access, quality of service and affordability of telecommunications facilities for all residential consumers.

**Consumer Driven Communications (CDC) Project recommendations**

The Consumer Driven Communications (CDC) Project delivered to the Australian Communications Authority (ACA) recently highlighted a number of approaches to regulation of important consumer issues that are relevant to how we believe the regulatory framework can be reformed to provide better consumer protection into



the future. In particular, CTN would like to highlight the following three main themes which reflect current residential consumer sentiments on regulation, competition and community safeguards:

- Consumers seek workable regulation and effective enforcement in the telecommunications industry to ensure that they get the products and services they need in an environment with adequate safeguards;
- The concepts of consumer protection and representation need to be elevated to the direct responsibilities of the legislator and regulator (with less emphasis on the self-regulatory processes); and
- The ACA (and in the future the Australian Communications and Media Authority [ACMA]) must continue to play a greater role in developing consumer protection mechanisms (for example by giving directions and setting deadlines).

Consumer protection is squarely the responsibility of governments and regulators. At present we see consumers exposed to excessive risk as a direct result of the industry's unwillingness to address consumer concerns because of the potential constraints on their competitive imperatives. Further to this, CTN does not believe that satisfactory outcomes for consumers can be achieved through self-regulatory approaches in all instances. We firmly believe there is still a place for direct regulation, enforced by strong and well-resourced regulators.

### **Key Issues for Telecommunications Regulation into the Future**

After fifteen years of working with and representing the interests of residential consumers in telecommunications, we have gained considerable insight into the expectations of the Australian public and their communications services. The following list of policy areas has been developed through consultation with CTN's network of community organisations and consumer advocates working in the telecommunications policy arena. It is particularly informed by our experience working through the self-regulatory mechanisms in the telecommunications industry. On this basis, we believe that we can make sound judgments about what policy objectives require government intervention and/or robust government regulation, versus what policy objectives are and/or could be effective at the self-regulatory level.

#### **1. Establishing Telecommunications as an Essential Service**

- The telephone can no longer be considered a luxury – it is essential not only for contacting emergency services, but also for participating fully in society, especially on an economic level. Consumers believe there must be some kind of declaration that a telephone is an essential service, in addition to the rights already afforded Australians by the Universal Service Obligation (USO).

## **2. Protecting our network**

- Consumers want to retain the majority public ownership of Telstra. If eventually Telstra is privatised, we would need enhanced consumer protection regulation. A thorough review with adequate consultation timeframes would be minimum requirements to produce the best outcomes for consumers, government and industry.
- The customer access network should be run on a not-for-profit basis open to all carriers and service providers. Striking a balance between social and economic policy objectives must be of the highest priority. CTN has been a supporter of the concept of structural separation for several years now, and it is our view that accounting separation alone is not adequately to achieve the aim of “future proofing” telecommunications in Australia.
- Future reviews of network infrastructure must be open and transparent. Quite apart from the ability of five yearly reviews to address the issue of “future proofing”, CTN believes that reviews must be more frequent to address technological advances but also to ensure the reviews are proactive. There must also be adequate residential consumer representation on any reviews of infrastructure in the future.
- If consumers are to receive the benefits of competition, social and public interests principles and tests need to be integral to competition policy and regulation. Such tests require extensive public input through an expanded range of public inquiry and consultative mechanisms.
- Public concerns about foreign ownership of Telstra must be addressed in addition to ensuring that there is better protection for the “mum and dad” investors who lost considerably on their purchase of T2 shares.

## **3. Better infrastructure access and development for all Australians including rural and remote regions**

- While we acknowledge that some advances have been made in the area of infrastructure, there are still inherent problems which result from the sharing of infrastructure that has been publicly funded through Networking the Nation, such as mobile towers.
- A commitment needs to be made to ensuring equitable access to telephone services for all. Encouraging competition in the residential market with strict

price controls and targeted assistance where necessary must remain on the agenda (for example Indigenous communities)

- Balancing public and private ownership, with support for community based and equitable telecommunications services, throughout all of Australia.
- Ensure that all telecommunications users, whether rural or regional, are taken care of by future competition and ownership arrangements in the telecommunications arena.
- Carriers should be encouraged to invest in network upgrades as a part of their licensing conditions.
- Funds from any future sale of Telstra should go into a trust so that the interest can fund and subsidise infrastructure development in the future. Sale funds must *not* be used on programs that are unsustainable and short term in their focus.
- Future government policy must redress current areas of inadequacy of the communications networks in Australia. While focusing on newer technologies such as the roll-out of the mobile network, access to the plain old telephone service must never be forgotten. This is not about stifling innovation; this is about guaranteeing basic infrastructure and access to that infrastructure into the future.
- Funds from the sale of Telstra must not be used to retire other debts. This will not replace the income from annual dividends the government currently receives.
- We must plan for and provide a telecommunications infrastructure which is sustainable in the long term and accessible to all Australians.

#### **4. Quality of Service (QOS)**

- The Government must establish external auditing and resourcing for the communications regulator so that it can adequately conduct audit on a regular basis. Consumers need a transparent and useable mechanism to identify systemic failures sooner rather than later.
- CTN would like to see more results and implementation of the recommendations from the Besley and Estens Inquiries. Monitoring and reporting on its own is not adequate.

- The Customer Service Guarantee must be improved and simplified so that more consumers benefit from it. The CSG must also be better publicised. The question of exemptions and how they are now being applied to VoIP providers also needs to be clarified. Consumers must be consulted and fully informed before exemptions are granted.
- A CSG for internet users must be implemented. It needs to apply not just for broadband users but for dial-up users as well.
- The Government must ensure that the Network Reliability Framework (NRF) continues and is incrementally improved over time.
- QOS benchmarks for mobile phone users must be developed.
- QOS for VoIP providers must be developed.

## **5. Adoption of a Consumer Protection Standard**

- The ACA should develop a Consumer Protection Standard using a Customer Lifecycle approach (as referred to in the CDC Report) to take the place of the current miscellaneous collection of standalone codes. This will link regulatory requirements to the experience a consumer has in the marketplace. This approach would also serve to eliminate duplication, gaps and overlaps that exist between current codes. The clear objective of this work must be to improve consumer protection and must not in any way regress from standards embodied in current Codes.

## **6. Improve Consumer Information and Education Programs**

- The ACA should acknowledge that the provision of information must not take the place of regulation and enforcement. The issue of unfair contract terms is a good illustration of the fact that in some cases no amount of information will remedy the problem; instead action is needed to remove those terms from suppliers' contracts.
- Implementation of the strategies outlined in the CDC report will improve consumer awareness levels into the future. The proposals are based on many years of community sector experience and not only contain costs, but are proven to be more effective than expensive advertising campaigns.
  - Suppliers must be directed to use the following techniques to improve the awareness levels of their customers to their rights:

1. distribute a consumer rights brochure at the point of sale;
2. insert a summary page about consumer rights in the front of all directories (e.g. white pages);
3. get customers to sign at point of sale that they have been given and understand information about their rights;
4. continue to distribute information as bill inserts (particularly on any final notices sent);
5. distribute contact details of the TIO with all warning and final notices; and
6. industry to develop a community advertising campaign in consultation with consumers about what to do if customers need help.

## **7. Address consumer concerns about access to the internet and broadband**

- We need more equitable opportunity for internet access in Australia, in particular to broadband services. The majority of the residential consumers that CTN represent do not have broadband at home. Government subsidies and intervention are required to breach the burgeoning digital divide.

## **8. Equitable access to basic affordable telephone services for all**

- While the recent Price Controls report by the ACCC acknowledges the need to ensure equitable access for low-income consumers regardless of the effects of competition in the market, the report does not go far enough to address real affordability issues.
- If Telstra is to be fully privatised, it cannot remain as the only provider which attempts to service low-income consumers. We'd like to see every provider be required to implement financial hardship policies and hard caps on bills, the amount of which is to be based on proper credit assessments.
- We recommend the removal of the GST from residential line rental. Businesses don't pay GST for their phones – and telecommunications is often a two-way interaction between business and consumer. No GST should be charged for provisioning and line rental. Telecommunications is an essential service, not a luxury, and the application of the GST to these basic services is adding to the difficulty of making this service affordable for all Australian consumers.
- There needs to be formal review into- and price limits set on- ancillary fees such as late fees, termination fees, reconnection and other penalty fees, security deposits and other unwarranted administrative charges.

## **9. Review the Standard Telephone Service**

- The ACA should pursue a review of the definition of the Standard Telephone Service (STS). This review should be done with full participation of consumer representatives. The review could consider the implications of the Next Generation Network (NGN) services such as Voice over Internet Protocol and Text over Internet Protocol. In conducting this review, the ACA should investigate the declaration of the STS as an essential service, with all associated rights and obligations.
- The redefined Standard Telephone Service must also give due consideration to accessibility concerns, and reflect issues about the ease of use, quality of service and other needs of consumers for affordable and appropriate services and products.
- Due consideration needs to be given to the inclusion of mobile services into the STS.

## **10. Inquiry into Complaints Handling in Australia**

- We see a pressing need to examine why Australian consumers find it so difficult to make complaints about their services, and why so many never even bother to try and register their dissatisfaction.
- This could be achieved by a thorough audit of compliance with the ACIF Complaints Handling Code. In particular, we'd like to see the requirement that consumers to be told about the TIO and their right to contact them to assist with the resolution of disputes be audited.
- There is a need for a definition of a Consumer Complaint to be mandated; this needs to include faults reporting. This should be achieved through a service provider determination.
- People are increasingly enraged and alienated by automated systems. User-friendly design of customer interaction systems should be mandatory.
- The CDC comments on the impact of convergence on the role of the TIO need to be fully investigated. An expansion of the TIO jurisdiction to include pay TV is an absolute minimum reform required, but a broader inquiry about the range of TIO powers is equally imperative.

## **11. Better control of unconscionable advertising practices, telemarketing and selling practices**

- Consumers want stringent enforcement of codes of conduct for honesty and non-intrusive telephone, email and SMS direct marketing.
- Accessible, comparable, and neutral information about products and services must be made available to consumers. Service providers may need to be regulated similar to the credit card industry to achieve this outcome.
- The Spam legislation needs to be expanded to include telemarketing. Codes of practices addressing mobile message issues related to how consumers can stop unwanted messages must be developed immediately.
- The Integrated Public Number Database (IPND) Standard under development by the ACA must be finalised and adopted without any further delays, or there is likely to be a consumer outcry about unnecessary delays and lack of transparency about the Standard development process.
- We want to see a regime developed that requires accredited training of retail sales staff, similar to the Responsible Sale of Alcohol requirements.
- There is a pressing need for a thorough investigation into the issue of uninformed consent, a problem which plagues consumers of telecommunications products and services. It must be ensured that all consumers are properly protected and understand their rights before signing a contract.

## **12. Better service and equipment contracts**

- CTN's preferred approach to addressing the problem of unfair customer contracts is replace the Standard Form of Agreement (SFOA) regime with a model contract for all consumers.
- In lieu of a model industry contract, consumers want comprehensive and accurate contract summaries must provided by phone companies.
- The SFOA Determination must be reviewed in line with the new Consumer Contracts Code and the Code must be registered by the ACA immediately.
- The ACMA must be properly resourced to conduct regular compliance audits of the Consumer Contracts Code.

## **13. Better Access for People with Disabilities to the benefits of a competitive market**

- CTN would like to see the Department of Communications, Information Technology and the Arts (DCITA) facilitate the establishment of an independent consumer-managed disability equipment program so that end-users can connect to the standard telephone service regardless of their disability and the service provider they use. This should be included in the *Telecommunications (Consumer Protection and Service Standards) Act 1999* in a similar way to the National Relay Service.
- An independent Disability Equipment Program would ensure that people with disabilities are able to benefit from their right to shop around for the deal that best suits their requirements, just as like other consumers. This issue has been raised by Human Rights and Equal Opportunity Commission (HREOC) and at the previous Senate Inquiry into the Australian Telecommunications Network, and action is urgently needed.
- Telecommunications customer equipment should be designed to ensure that everyone can use it. The current Disability Equipment Standard must be expanded as a matter of urgency to prevent Australia becoming a dumping ground for substandard equipment from Europe and the USA, where increased regulation is having a substantial impact on design.
- We want to see the 2004 ACIF TATA Project to DCITA recommendation that the National Relay Service must be upgraded implemented without delay.
- All carriage service providers must be required to develop Disability Action Plans, and lodge these with the HREOC. They need to be reviewed regularly to ensure they meet the needs of consumers with disabilities.

#### **14. Payphone provision and emergency access**

- Everybody might need access to a public phone from time to time. Especially in remote areas and tourism locations, payphones can be crucial. We need a public payphone site policy that ensures access to emergency access.
- All the recommendations of the ACA Payphone Review must be implemented as soon as practicably possible. Of particular on-going concern is the access by indigenous communities to payphones, and also with the proliferation of non-Telstra payphones which are not accessible by people with disabilities. These are areas that may never be properly serviced by competitive markets and ongoing intervention is required.
- The price of a local call from a payphone must not be increased.

#### **15. Reform of the Universal Service Obligation**

- In 1994, CTN called for a review of the Universal Service Obligation and argued strongly that a **Universal Communications Service** was a more appropriate concept, incorporating concepts of community service obligations from telecommunications, television and radio broadcasting. We highlighted that access to interactive communications and a diverse range of information and cultural resources would become essential to enable consumers to participate fully in society. We now call for policy makers to recognise the natural evolution of universal service to include broadband services across Australia. Reforming the USO is timely, and in our view cannot be delayed any longer.

## 16. Review of the provision of Directory Services

Universal Access to public directories is being eroded by competition with no protection in the directory market. We are concerned that customers are being duped into paying for directory services because they are not aware that an equivalent free service is available. CTN wants all advertising for premium directory assistance services to be clearly display all terms of use, charges, and free directory numbers, and think regulatory intervention is appropriate to achieve this outcome.

## 17. Enforcement of Community Impact Statements

- The industry should be required to develop community impact statements for all major new products and services in consultation with consumers before their introduction. This should be done in tandem with trials and pilots to ensure that it is as usable and accessible by all sectors of the community as possible and that it does not cause any interference with existing technologies or equipment.

## 18. Emergency Services

- We want assurance that one national emergency number will be maintained regardless of the rollout of new technologies.
- There must be an investigation into impact of privatisation on Emergency services. The protection of emergency services must remain a regulatory priority.
- Work with must be done with Emergency Service Organisations to ensure we have the most effective national network of which can respond effectively in a coordinated manner.

- We'd like to see the ACA introduce service provider rules that require fixed line carriage service providers to offer priority assistance services, as Telstra presently does (and must do in the future, regardless of any further privatisation).
- Finally, CTN members are very concerned about the impact of VoIP on the provision of emergency services. Regulation must ensure that we do not end up with a two-tiered system of emergency provision in Australia.

## **19. Improve the Scheme for Grants for Consumer Advocacy and Research**

- DCITA grants for consumer advocacy and research funding program be overhauled to ensure:
  1. Scalability – ensure the funding level grows with the industry
  2. Stability – ensure a sustainable funding base for consumer groups
  3. In addition to project based funding, program funding for periods longer than 1 year.
- Consumer groups must be funded to enable improved co-ordination of input to legislation reviews. This will mean that the expertise of groups with specialist knowledge can be shared, through mechanisms such as the Consumers Telecommunications Network (CTN) Consumers Forum.
- Additional funding should also be allocated specifically to raising consumer awareness and presenting alternative views on issues from a consumer view point.
- DCITA should ensure that in expanding assistance to new groups under the grants for consumer advocacy and research, that organisations currently receiving funding continue to be allocated sustainable levels of funding.
- Further, we'd like DCITA to investigate the possibility of handing control of funding for sitting fees for participation in self-regulatory agencies to the self-regulatory agency.

## **20. Improving - not abolishing - self regulation**

CTN members believe that the government needs to acknowledge the limitations of self-regulation but continue to work within these boundaries. A number of recommendations have been made in the CDC Report about improving self-regulation and compliance with in self-regulatory frameworks. These

recommendation demand a well considered response and should be supported by both government and industry.

### **Conclusion**

In conclusion, CTN believes that the public interest is best served by an equitable universal means of access to information and connectivity. This requires, at the very least, some form of universal, basic access to the telephone. It increasingly, also requires access to the internet. CTN's members believe the USO now needs to be extended to broadband services.

The telecommunications infrastructure is a national asset that has been purchased and paid for by all Australians. The siphoning off of this asset into the hands of relatively few Australians and overseas investors who have no interest other than a financial one is highly questionable. Such an approach is unlikely to address the needs of all the Australian residential consumers of today- let alone tomorrow. There is an inherent conflict of interest between the provision of a universally accessible national utility infrastructure and profit-motive driven processes.

Should you wish to discuss this response in more detail please contact myself or Sarah Wilson, Policy Officer at the Consumers' Telecommunications Network where we can be contacted on 02 9572 6007 or at [ctn@ctn.org.au](mailto:ctn@ctn.org.au).

Yours sincerely,



Teresa Corbin  
CTN Executive Director

---

This submission was prepared by Teresa Corbin, CTN Executive Director, and Sarah Wilson, CTN Policy Officer. It has been approved out of session by the CTN Council.

