



COMMONWEALTH OF AUSTRALIA

SENATE

Official Committee Hansard

ENVIRONMENT, RECREATION, COMMUNICATIONS
AND THE ARTS LEGISLATION COMMITTEE

Reference: Telstra (Transition to Full Private Ownership) Bill 1998

WEDNESDAY, 6 MAY 1998

CANBERRA

by authority of the Senate

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SENATE

**ENVIRONMENT, RECREATION, COMMUNICATIONS AND THE ARTS
LEGISLATION COMMITTEE**

WEDNESDAY, 6 MAY 1998

Members: Senator Patterson (*Chair*), Senator Schacht (*Deputy Chair*), Senators Allison, Eggleston, Lightfoot and Lundy

Substitute member: Senator Tierney

Participating members: Senators Abetz, Bartlett, Bolkus, Boswell, Bourne, Brown, Calvert, George Campbell, Carr, Colston, Coonan, Cooney, Crane, Faulkner, Ferguson, Harradine, Hogg, Mackay, Margetts, Murphy, Neal, O'Chee and Tierney

Senators in attendance: Senators Carr, Colston, Lightfoot, Lundy, Margetts, Patterson, Schacht and Tierney

Terms of reference for the inquiry:

Telstra (Transition to Full Private Ownership) Bill 1998

WITNESSES

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Committee met at 9.08 a.m.

CHEAH, Mr Christopher Michael, Assistant Secretary, Regulatory and Networks Policy Branch, Telecommunications Industry Division, Department of Communications and the Arts, 38 Sydney Avenue, Forrest, Australian Capital Territory 2600

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STEVENS, Mr Neville Robert, Secretary, Department of Communications and the Arts, 58 Sydney Avenue, Forrest, Australian Capital Territory 2600

CHAIR—I welcome you to this public hearing of the Senate Environment, Recreation, Communication and the Arts Legislation Committee. Today's hearing in Canberra is the third of our inquiry into the Telstra (Transition to Full Private Ownership) Bill 1998. The committee prefers that evidence be given in public but, should you at any stage wish to give your evidence, part of your evidence or answers to specific questions in camera, you may ask to do so and the committee will consider your request. I would point out, however, that evidence taken in camera may subsequently be made public by order of the Senate. The committee has before it submission No. 30, which it has authorised to be published. Are there any alterations or additions that you would care to make at this stage?

Mr Stevens—No.

CHAIR—Thank you. Do you wish to make a brief opening statement?

Mr Stevens—No, thank you.

CHAIR—We are doing well today. We will proceed straight to questions. Senator Schacht.

Senator SCHACHT—Mr Stevens, in today's *Australian Financial Review* there is a story suggestion that the minister has requested the department to have a look at further amendments to the regulatory regime of the Telecommunications Act that deal with competition issues, as a result of complaints by Telstra's competitors that the present regime is too beneficial to Telstra and is not enabling full competition to take place. You may or may not be aware that last week in Sydney a group of competitors to Telstra did give evidence and did propose specific amendments to the Telecommunications Act. Are they the particular amendments that were raised by those witnesses? Are they the ones that you have been asked by the department to provide advice to the minister on?

Mr Stevens—There have been a number of suggested changes to the regulatory regime that have come out, particularly in the past month or so. But even before that there were issues that were being raised with us by a number of organisations in the industry. Some of those particular suggestions are pretty wide ranging, and we have certainly had a number of discussions with these organisations and we are in the process still of talking to them to clarify what some of them might mean and to talk with other departments and instrumentalities about the implications of some of these suggestions.

Senator SCHACHT—Has the minister asked you, as the story says on page 3 of the *Financial Review*, 'for advice on the logistics of amending the telecommunications legislation'?

Mr Stevens—No. There has been no formal request for advice. He is aware that we are talking to industry about these issues.

Senator SCHACHT—And he is happy for you to talk to industry about these?

Mr Stevens—I think it is part of our job to continue to talk about a range of these issues.

Senator SCHACHT—I know it is part of your job, but he is aware that you are doing it. Will you report to him before the legislation is debated in the Senate?

Mr Stevens—I imagine we would have to give him some advice on some of the issues that have come before this committee before the debate, yes.

Senator SCHACHT—So the proposals were put forward specifically by a group of telecommunications companies last week in Sydney; and, at the request of the committee, they will further provide those amendments where necessary, if they have not already done so: they will provide the actual wording of the amendments themselves in the Telecommunications Act and the Trade Practices Act. Are those the ones that you are also specifically looking at?

Mr Stevens—I do not have those in front of me, but there are no specific issues—other than that, as I say, a number of quite different issues have been raised that we are talking to people about. I should make it clear, though, that fundamentally we believe that the structure is very sound for the post-1997 regime.

Senator SCHACHT—Of course, as you heard from the evidence last week, they do not believe that it is fundamentally sound. You then might say to me that they would say that, wouldn't they, being competitors.

Mr Stevens—Some of the issues that have been raised by some of the organisations might go to what one might call finetuning. Others are perhaps more substantial.

Senator SCHACHT—Do you think the phrases used in the story—and they were used in our evidence last week—about bottleneck facilities and ring fencing are finetuning, or fundamental changes to the regulatory regime?

Mr Stevens—It depends a little on what is meant by some of those terms. The term 'ring fencing' is a good example: there is a variety of aspects that come under ring fencing, from—

Senator SCHACHT—Do you see the need for Telstra to publicly unbundle its pricing structures, so that people can get a clear transparency about what the actual costs of the various Telstra services are?

Mr Stevens—We have not reached any conclusions on those issues at this point.

Senator SCHACHT—But you will reach some conclusion in an advice to the minister before this legislation is debated in the parliament?

Mr Stevens—We will certainly give him advice, yes.

Senator SCHACHT—On those specific issues?

Mr Stevens—On the range of issues that have come before this committee and which have been raised with us in Canberra.

Senator SCHACHT—Let me get this clear: the minister has not asked you for advice on these matters.

Mr Stevens—Not formally, but he is aware of the fact that we are talking to industry about them.

Senator SCHACHT—What is 'not formally'? Is it a smoke signal? Is it mirrors? Smoke and dust? Tom-tom drum messages from his office over to you?

Mr Stevens—No. He is aware we are talking on the issues, because I have raised it with him.

Senator SCHACHT—So he has discussed it with you, as head of the department?

Mr Stevens—I have talked to him about the fact that a number of people have come to us with these issues and that we will talk to them about the issues and to a range of departments about the application of them.

Senator SCHACHT—And you have discussed with him that they will want, with these issues, to be looking at amendments to the legislation?

Mr Stevens—I have not got into that sort of detail.

Senator SCHACHT—In looking at these further possible amendments, are you also looking at amendments to the definition of the universal service obligation and what should be contained in the universal service obligation?

Mr Stevens—That goes very much to the review which has been mandated in the post-1997 Telecommunications Act and about which I expect to see an announcement fairly soon.

Senator SCHACHT—The announcement of the review, or the completion of the review, or what?

Mr Stevens—An announcement of the review.

Senator SCHACHT—Yes. Mr Stevens, the government wants this legislation debated in the Senate before the end of May: will you have that review completed by the end of May?

Mr Stevens—A review of the—

Senator SCHACHT—The universal service obligation.

Mr Stevens—Of the digital data capability, the requirement for which review was contained within the act?

Senator SCHACHT—Yes: that has got to be done by 30 September.

Mr Stevens—That is right; exactly.

Senator SCHACHT—I am talking about the actual universal service obligation, whether that is digital data or whatever the arrangements are. We have had a number of requests of this committee already to extend the definition of the universal service obligation and what should be contained within it. Yesterday in Melbourne a number of witnesses from the regional areas of Australia asked for a minimum guarantee that USO will provide 64 kilobits per second of capacity. That covers the digital issue, I know. We also had high schools turning up and telling us that last year Telstra, with no warning, started charging schools in Australia the commercial rate for their telephone services. They are asking whether that should be put in the universal service obligation. What I am asking is this: we have to report in a matter of only 10 days, but will you not have any information available to us on what the government's response is to amending the USO, before it is debated in the Senate?

Mr Stevens—The USO is something which is contained in the Telecommunications Act: it is not an issue which is specific to the privatisation of Telstra.

Senator SCHACHT—What? What? Mr Stevens, every witness we have had—other than Telstra itself and you—has basically asked for an expansion of the universal service obligation to guarantee that the bush is not receiving less than the city is in telecommunication services. Even Telstra said yesterday—believe it or not—‘Oh well, if the government wants to amend the universal service obligation under the Telecommunications Act to guarantee these services,

that is a matter for parliament and we will go along with it, but we may not like it.' This is an issue that will be debated within two weeks, if the government brings the bill on in the Senate: are you saying this is irrelevant?

Mr Stevens—No, I am not saying it is irrelevant, at all. I am saying that the provisions of the universal service obligation are contained in the Telecommunications Act—

Senator SCHACHT—And we are amending the Telecommunications Act in this package of bills.

Mr Stevens—We are indeed. That is one of the proposals, but there is also a specific proposal for a review of the digital data capability, which will be undertaken by the minister in accordance with the act; and the timetable in that act is that the review should be held by the end of September.

Senator SCHACHT—Yesterday the ACA turned up and gave evidence. They said they have not even been given the terms of reference yet for that review. They said they will be able to conduct the review by the end of September. Why have the department and the government been so slow, since you have had since March of last year, when the act was passed, to provide the terms of reference to the ACA to get on with the job? This is not an insignificant issue.

Mr Stevens—No, it is not an insignificant issue, and the government is certainly giving it attention. As I say, I am expecting an announcement very soon on that particular issue.

Senator SCHACHT—'Very soon'? We have waited 14 or 15 months now: under your time scale of 'very soon', that probably means Christmas, under your definition, Mr Stevens.

Mr Stevens—I do not think it does, actually.

Senator SCHACHT—Well when?

Mr Stevens—I would expect it at some time in the very near future.

Senator SCHACHT—You are getting better, I have to say, Neville. We are teaching you well. Can we send you a Christmas document of the full scripts of *Yes, Minister*?

Mr Stevens—I would expect it by the end of this week at the outside, and probably even before that.

Senator SCHACHT—At the end of this week! Thank goodness. Thank you, Mr Stevens: that is the most definite thing you have said today certainly, and probably in the last three estimates hearings. Well done!

Senator CARR—He is slipping.

Senator SCHACHT—He is slipping, I must say.

Mr Stevens—I must get more practice.

Senator SCHACHT—Well, we finally got 'the end of this week.'

Mr Stevens—Maybe earlier.

Senator SCHACHT—Mr Stevens, I know it is probably not your fault, because it is more likely that the minister has got it at the bottom of his tray. The problem we have is that this is a point that witnesses are making very strongly at the hearings: if there is to be full privatisation of Telstra, they do not believe the present USO of just guaranteeing the standard telephone is going to guarantee regional Australia the same quality of service, in the foreseeable future, as the city has.

Mr Stevens—I would point out that there are a number of provisions within the proposed amendments to the act which do look at customer service guarantees, which are specifically aimed at the quality of replacing services—

Senator SCHACHT—The customer guarantee is not the universal service obligations.

CHAIR—You have interrupted Mr Stevens about four times.

Senator SCHACHT—I am just keeping him on his toes.

CHAIR—I am sorry, I do not care. I am not going to tolerate it. Let him finish his answer.

Senator SCHACHT—Tolerate it not, Mr Stevens and I are having a good dialogue here.

CHAIR—Just let him finish his answer.

Mr Stevens—The point that I am making is that there is a range of issues that go towards the concerns that regional and rural consumers have about telecommunication services. Certainly one of the issues is the standard telephone services, which will be addressed and has to be addressed. Other issues which they are concerned about include the quality of service and that has been addressed in this particular piece of legislation.

Senator SCHACHT—You mentioned the customer service guarantee. This is a major defence of consumer interest. Why has it taken nine months for the minister to consider, after he received the draft universal service plan—the ACA told us about it yesterday—in September of last year. We still do not have a decision or an adoption of a universal service plan which would outline new customer service guarantees. We are still working on the old one from the Austel report of nearly two years ago. Why has there been such a delay?

Mr Stevens—The reason for the time which has elapsed since the ACA report—November last year, I think—is that the ACA recommended 44 changes and they are issues that needed to be discussed with Telstra. Some of these are quite significant issues which go towards both cost and concerns that people have about getting the highest possible standard of service under the universal service plan. What we have been doing in that period is talking with Telstra about some of these issues. Again, I expect that we will have a formal plan emerge very soon.

Senator SCHACHT—Nine months, 44 issues? You take nine months and you still not have got a decision? We are not talking about rewriting the theory of relativity here.

Mr Stevens—The ACA reported at the end of November. It is now early May. My arithmetic does not make that nine months.

Senator SCHACHT—No, since they lodged it in September, it is nearly nine months. All right, go to November: it is six months then.

Mr Stevens—Again, I say that the ACA raised 44 issues which we have had to talk to Telstra about. That is the reason for the delay. We are concerned to ensure that we get the best possible quality plan.

Senator SCHACHT—Mr Stevens, yesterday, at the evidence given by the ACA, they said that they are now out of the loop in the discussions about the final drafting and preparation of the universal service plan. Is the department out of the loop and has this discussion over these 44 points now been left totally in the hands of the minister and his office with Telstra?

Mr Stevens—No, Senator, it is not. We have been fully involved in discussions with Telstra on these issues.

Senator SCHACHT—So the department is involved in doing it?

Mr Stevens—Yes, it is.

Senator SCHACHT—Are you doing it completely by yourself for the department and then going to recommend to the minister, or has the minister, and his office, got his hands on some levers on these issues?

Mr Stevens—No, as in most issues, it is the officer involved in the ongoing discussions that we have with Telstra.

Senator SCHACHT—In regard to the 44 issues, can you table what those 44 issues are?

Mr Stevens—We are just trying to check whether it is a public report or not, Senator. I am not aware whether or not it was.

Senator SCHACHT—These are the ACA recommendations to adjustments to the universal service plan which is for the public's benefit. Surely the public should have the benefit of what those 44 queries are? This is not a matter of national security.

Mr Stevens—No, I accept that.

Senator SCHACHT—It is not a cabinet document.

Mr Stevens—I accept that. I was simply wondering whether it had actually been published already and I simply do not know the answer to that.

Senator SCHACHT—I have to say—

Mr Stevens—We will provide it to you.

Senator SCHACHT—Can you provide it to us before we end the hearing today?

Mr Stevens—We will see what we can do.

Senator SCHACHT—Can we check that?

Mr Stevens—Yes, I will certainly check that.

Senator SCHACHT—Thank you. Of the 44, how many are still outstanding in discussion with Telstra.

Mr Stevens—I think we are getting very close to resolving almost all of those issues now.

Senator SCHACHT—So that is why you may be confident that some time in the next week or so, before the legislation is debated in the Senate, we will have the universal service plan available to us?

Mr Stevens—I did not say that, Senator; I said in the near future.

Senator SCHACHT—Mr Stevens, we do not have the minister at the table; I have to say I think it is very odd to have this legislation debated, including the Telecommunications Act, without the universal service plan being available to give us some idea of what protection the public are going to get under the customer service guarantee when in fact the government makes great play of the customer service guarantee as being the great protection, the new innovation—and we have no evidence of what is in the plan.

Mr Stevens—I understand the point and we will certainly see whether we can produce it in that period.

Senator SCHACHT—Yesterday, the ACA, in the evidence they gave, talked about the new provision and how to apply the up to \$10 million fine for systemic faults—I think they are called—and lack of meeting services in the system. When we asked questions, to give us a rough idea—not down to the crossing of the t's and dotting of the i's, but a general idea of what would be a systemic breakdown of a system that would lead to fines of up to \$10 million—we could not get an answer. I do not blame them. Do you have any idea, Mr

Stevens? The department have done work on what would be the definition of a systemic breakdown of service that would lead to \$10 million fines.

Mr Stevens—The ACA is going to investigate this issue, but I think ‘systemic’ is just as it really says. If there are ongoing problems in a particular area and they are systemic, not due to perhaps one-off instances, then that would be the sort of issue that the ACA would be looking at.

Senator SCHACHT—But does that mean one cost under the dreadful CoT case examples we have had before us, though still contested by Telstra, where people have complained over a period of many years that their telephone system at their business has been continually faulty and has been detrimental to their business? Is that a systemic fault that could bring a fine of up to \$10 million? It was not just one fault, it was going on for years.

Mr Stevens—Again it would depend a little bit on what the ACA decides and what those faults were, but I would not—

Senator SCHACHT—This really is buying a pig in a poke about what a systemic fault is. You may have it there but it will never ever be applied because the definition is so loose that Telstra and the carriers will immediately go to the Federal Court and take injunctions against the ACA, and the court will find that they cannot prove definitely what a systemic fault is.

Mr Stevens—I think, frankly, if we had a situation where there was an ongoing series of complaints about particular issues and a failure to meet the standards, that is the sort of issue which we would consider being systemic.

Senator SCHACHT—But could one individual consumer be considered, if they have a long period of faults, as having a systemic fault?

Mr Stevens—I think that would depend a little bit on what the ACA goes through. It is very hard to give an example without knowing the circumstances of a case—and I think it would depend upon the circumstances of the case.

Senator SCHACHT—Mr Stevens, the minister has made great play of the fact that there is this new provision. The \$10 million fine was already there in the previous legislation. It is now being made available for systemic faults. This is a penalty against the carrier, but we do not know how it is going to work or what a fault actually is. I will put it around the other way: will a customer, like in one of our CoT cases, be able to take an action for a systemic fault?

Mr Stevens—The customer can certainly make it clear to the ACA that they consider it a systemic fault but, again, it is something that depends upon the circumstances at the time.

Senator SCHACHT—But can an ordinary consumer launch an action against a carrier for a systemic fault?

Mr Stevens—Not as far as I can see—

Senator SCHACHT—Who does launch the action?

Mr Stevens—The ACA.

Senator SCHACHT—The ACA? Can an ordinary consumer go to the ACA with a complaint and say, ‘I believe this is a systemic fault’?

Mr Stevens—Yes, I believe so.

Senator SCHACHT—Does that mean one of our individual CoT cases could be considered a systemic fault?

Mr Stevens—Yes. They could certainly go to the ACA and ask them to look at it, yes.

Senator SCHACHT—Mr Stevens, will the parliament get an opportunity to see what will be the description, the rules, that the ACA will adopt to cover what would be a systemic fault so there is some guideline for the industry and consumers, at least?

Mr Stevens—The ACA is consulting the guidelines at the moment and they will certainly be public.

Senator SCHACHT—Are those guidelines to be just administrative guidelines or will they be a disallowable instrument?

Mr Stevens—An administrative instrument.

Senator SCHACHT—Is that a disallowable instrument?

Mr Stevens—No, it is an administrative guideline.

Senator SCHACHT—An administrative instrument. Would the government consider making them a disallowable instrument?

Mr Stevens—We could take that on board.

Senator SCHACHT—Would you take that on board and get an answer back to us before the end of the week?

Mr Stevens—We will do our best.

Senator SCHACHT—We have to report by next—

Mr Stevens—I understand your timetable. We will give you a response by the end of the week on it.

Senator SCHACHT—I raised this with the ACA yesterday—and I am in no way critical of the ACA; I think they have been left hung out to dry by this government over the lack of clarity on a number of these issues—but can we get some idea of what would be a systemic fault and how they would operate and investigate what a fault is? Does it mean the whole of Brisbane has to go down 10 times; does it mean Wagga Wagga has to go down twice, or does it mean a street has to go out once to get a systemic fault?

Mr Stevens—We will try to give you as much information as we can by the end of the week on that.

Senator SCHACHT—I understand that the fine of up to \$10 million under the customer service guarantee is not given back to the customers who have suffered this systemic fault. Does that go to consolidated revenue?

Mr Stevens—Yes, it does.

Senator SCHACHT—So what recompense do all these people get who have suffered the penalty and loss of business through the systemic fault?

Mr Stevens—They are recompensed within the customer service guarantee.

Senator SCHACHT—But do they get that, as well as the government getting up to a \$10 million fine?

Mr Stevens—Yes.

Senator SCHACHT—So they will get \$10 a month off their rental?

Mr Stevens—The provisions are set out in the customer service guarantee.

Senator SCHACHT—What is it—\$10 a month, \$20 a month?

Mr Cheah—It is a month's rent for every day.

CHAIR—It is \$11 a day or something.

Mr Cheah—It is \$11 a day.

Mr Stevens—I think you are pretty close.

CHAIR—It is \$11 a day, I would guess.

Senator SCHACHT—So \$11 a day.

CHAIR—Just ask me the questions and I will answer them.

Senator CARR—That will make it worth while.

Senator SCHACHT—So the government will get up to \$10 million for revenue, which is a form of revenue raising measure that may be useful for Treasury, but the consumer—

Senator CARR—If they can define what it is that they are paying for.

Senator SCHACHT—They have to define it, first of all, and probably fight a five-year court case. The best the consumer—who is supposed to be the great beneficiary of this \$10 million—is going to get is \$11 a day.

Mr Stevens—The intention of this piece of legislation is to try to prevent systemic faults emerging. I think it is very important that we do whatever we can to ensure the incentives are there for the carriers to get it right the first time, rather than have to come back and give compensation for failure of service. In other words, the possible fines are a very strong incentive for the carrier to get it right the first time round and prevent systemic faults becoming an issue.

Senator SCHACHT—You know as well as I do under the ACCC that the only time the corporate sector has really got weaving on making changes is when the ACCC has imposed millions of dollars of fines and been successful. Then you get changes in corporate behaviour in Australia. You cannot jawbone the corporate world to perform better when it could cost it a few million dollars.

Ms Holthuyzen—Customers with complaints can always go directly to the TIO. They have their rights under the CSG, but they can also go to the TIO who can handle the individual complaints. That can involve compensation in some areas. The TIO can make a determination up to certain levels, so there is another mechanism there as well.

CHAIR—I want to ask a question about the individual and whether there would be any possibility of having some sort of accumulating penalty so that it does not just stay at \$11 a day, but that, the longer it is, it accelerates to put more pressure on—

Mr Stevens—The ACA has been asked to look at the levels of penalty before the end of this year; and so that could be one of the issues they look at.

CHAIR—Under the review that is due by the end of December?

Mr Stevens—Yes.

Senator SCHACHT—Mr Stevens, yesterday Mr Given from the Communications Law Centre said in evidence to the committee that there ought to be a pecuniary penalty. Has that been an issue that government would consider? I draw your attention to page 10 of his submission. His recommendation is that section 236A of the bill be amended to provide that the contravention of the standard is a civil penalty provision.

Mr Neil—We do not have access to that submission.

Senator SCHACHT—He did table it only yesterday. Could I ask you to take that on notice and respond?

Mr Stevens—We will give you a written response to that.

Senator SCHACHT—His point yesterday in his submission, and he also made it in evidence, was that it will be the way in which you will keep all the carriers, and not just Telstra, with their feet to the fire with regard to providing decent service and being committed to providing it, if people—as we discovered in the case of CoT—can take a pecuniary penalty.

Mr Stevens—So he is proposing that the individual—as opposed to the ACA—should have the right to take the carriers to court and seek a pecuniary penalty: is that right?

Senator SCHACHT—Yes; I think that is correct.

Mr Stevens—We will have a look at that and get back to you.

Senator SCHACHT—Okay. I could imagine the carriers going berserk about that; nevertheless, your submission is about the wonders of regulation in a fully privatised telecommunications system.

Mr Stevens—What our submission says is that regulation is a very important part of any system.

Senator SCHACHT—Regulation only works when the penalties are sufficient enough to make people obey the regulation and not get into using devices to get around and avoid their obligation to consumers, if the government is no longer directly involved in running the telecommunications system.

Mr Stevens—That is one of the reasons why the systematic breaches of the CSG will in fact be such that fines can be levied—for that very reason.

Senator CARR—On that same issue, the submission actually says that the effect of the proposed amendment would make contravention of an ACA direction on compliance with a standard a breach of the act, and therefore enforceable through the ACA or the minister seeking an injunction in the Federal Court, and so on. The proposal goes to the issue of the ACA or the minister seeking pecuniary damages. I would ask you to consider that, as a subset of the question that Senator Schacht has just asked you.

Mr Stevens—Okay.

Senator SCHACHT—Mr Stevens, in evidence we got yesterday from the ACA, from Mr Pinnock and from other witnesses about the operation of the customer service guarantee, it came up that Telstra itself has the right to declare which services they can opt out of—according to, for example, the definition of ‘extreme weather conditions.’ In the northern part of Australia in the wet season every year, a lot of lightning strikes, et cetera, are common. Apparently, Telstra often uses that situation as a definition of extreme weather conditions. Do you have a view about whether it is appropriate that Telstra, off its own bat and without reference to any other regulator, should be able to declare whether the customer service guarantee operates or not?

Mr Stevens—Yes, I do have some views on that. As far as I am aware, that is not the way it works. Telstra cannot unilaterally opt out of its commitments. If it says to a customer, ‘The reason we have not done this is because of severe weather conditions,’ that customer is entitled to raise with the TIO their concerns in the normal way, and the TIO will then investigate the matter, so that it is not a unilateral decision by Telstra which then is not subject to review by the TIO.

Senator SCHACHT—If you read the evidence of Mr Pinnock yesterday, you will see that he has concerns about this definition. He says, when he gets down to dealing with it, that there is no definition of what ‘extreme weather conditions’ are. He gave the very distinct impression that he thought lightning strikes in the northern end of Australia, as part of the wet season, are not extreme weather conditions but are normal weather conditions that occur in northern Australia every year.

Mr Stevens—I understand that, but I would have thought that he would then be in a position to say that that is his view and therefore to proceed to determine the case in the normal way.

Senator SCHACHT—Would it not be better—and I ask you to take this on notice, because we are going to run out of time—that the ACA, maybe, should have a definition and tell Telstra, ‘You can’t claim lightning strikes as extreme weather conditions’? It is clear from Mr Pinnock’s evidence that he is not satisfied with the way Telstra is using the process.

Mr Stevens—We will take it on notice, Senator.

Senator SCHACHT—Can you also come back to us as to what you think the definition of extreme weather conditions or extreme climatic conditions is? Mr Pinnock would be very pleased to hear it.

Mr Stevens—Okay.

Senator SCHACHT—In your submission you make suggestions that the government will have major savings on debt interest payments by the privatisation of Telstra: that is in your submission as one of the dot points. Has the department done any examination of, or sought advice from Treasury or Finance on, the anticipated growth of the telecommunications market and the fact that, with Telstra maintaining even a diminished share of a much bigger market, the Telstra profits into the next century would more than equate to the savings to the government from debt reduction?

Mr Stevens—Can you direct me to that page of the submission, please?

Senator SCHACHT—A dot point on page 3 refers to ‘enabling the retirement of significant amounts of public sector debt’: right?

Mr Stevens—Yes.

Senator SCHACHT—Did the department or Treasury or Finance provide you with any advice about the fact that, if the telecommunications market continues to grow into the next century, and even if Telstra has less percentage share of that market, the dividends from Telstra in fact would be greater than the savings on public debt. Something like six per cent or 6½ per cent of the bond rate at the moment is what the debt figure is calculated at. In the end, we would be getting bigger dividends early into the next century to government than we would be saving on interest rates. Some people publicly in their submissions have raised that point. I wondered whether, in making that dot point, you had considered any of those aspects.

Mr Stevens—No. That is an issue which is being responded to, I think, by Treasury and Finance. Our point there was a very simple one: if a significant amount of money is raised, it will enable the retirement of a certain amount of public sector debt. It does not go to the issues you have raised. It is perhaps a comment that is more straightforward than the issues you have raised, and we have not looked at them.

Senator SCHACHT—I accept that in technical terms you are correct to say, ‘Yes, if you sell it, you will retire public debt.’ The next step is when you make that value judgment in the broader context of the good for the government and for the taxpayer. If it shows that, by the turn of the century and every year thereafter, the government would get more in dividends

than it would save in retirement of public debt, we then come out at a net loss. But that was not a consideration for the department, you are telling me.

Mr Stevens—No, that is not an issue that we have looked at closely.

Senator SCHACHT—I must say I am a little surprised that somewhere in the bowels of the department some of your well-briefed and knowledgeable economists would not have decided to run that past their brains, for a couple of seconds at least.

Mr Stevens—If they have, they have not bothered to share it with me.

Senator SCHACHT—They have not bothered to share that with you, Mr Stevens?

Mr Stevens—More importantly, I think they would take the view that I would take, which is that there are other departments of state which are better equipped than we are to do those calculations.

Senator SCHACHT—Is there no interdepartmental committee operating on the sale of Telstra?

Mr Stevens—No formal interdepartmental committee that I am aware of. We certainly talk to other departments about issues. For example, when the legislation was drafted, we brought departments together to talk about the issues.

Senator SCHACHT—Okay. But you are unaware that any of your officers have discussed the issue I have just raised with officers of Treasury or Finance?

Mr Stevens—I am not aware of it, no.

Senator SCHACHT—And you certainly have not, Mr Stevens?

Mr Stevens—No.

Senator SCHACHT—Mr Neil, have you discussed this decision?

Mr Neil—Not in detail, no.

Senator SCHACHT—Not in detail? You have only discussed what you have said there, that there would be savings on public debt, and not whether there would be a net loss over a longer period of time to the government?

Mr Neil—The issue really depends on assumptions that you make about interest rates, and on whether you take into account tax effects, et cetera—a whole range of issues which I am not capable of dealing with effectively and have left to other departments to deal with.

Senator SCHACHT—Are you suggesting that interest rates under this government are going to go up?

Mr Stevens—He certainly is not, Senator.

Mr Neil—I am certainly making no assumptions. Exactly the point I am making is that you cannot make the assumptions necessary to draw the graph, and so why try?

Senator SCHACHT—This is an asset which, under the government's policy, it will only be able to sell once. Once it is sold, it is gone for good. If we discover that in five years time we actually have a net loss compared with the dividends and the revenue we were getting from Telstra, some people might be a bit cranky about that.

Mr Stevens—As I say, it is not something that we as a department—

Senator SCHACHT—Are you suggesting that I raise this with Finance and Treasury when they turn up at our hearing later today, or whenever it is?

Mr Stevens—I am suggesting that they would give you a comprehensive response to that.

Senator SCHACHT—A comprehensive response; and you will make sure that they are told to give us that comprehensive response today?

Mr Stevens—I am sure we will let them know that you asked the question.

CHAIR—I have some questions to ask, too. I have been sitting quietly, and I will be taking some time. So I am just warning you that we have got three-quarters of an hour.

Senator LUNDY—I would just like to address a couple of questions towards regulatory risk associated with the sale of the remainder of Telstra. Firstly, I would like to draw your attention to the submission made by the Office of Asset Sales and Information Technology Outsourcing. In section 4 of their submission, they state that you cannot consider privatisation in isolation from the regulatory framework and the nature of the competition and access regime. I would like to go back to your earlier comments about the relationship between the regulatory regime and the privatisation of the remaining part of Telstra. Again I ask you what degree of analysis DoCA has done in terms of the regulatory risk that may present itself in the privatisation? What impact it is likely to have?

Mr Stevens—I am just looking for the reference you quoted. What page is it on?

Senator LUNDY—It is on page 8 of the OASITO submission.

Mr Stevens—We do not have the same numbering. Perhaps I can make some general comments while we are looking for it. We are saying that ownership of Telstra is no substitute for a proper regulatory regime to control the telecommunications industry in this country. At the end of the day—

Senator SCHACHT—That is no justification for privatisation, either.

Mr Stevens—We are saying that government ownership of it is not a substitute in any sense for a proper regulatory regime, and that is the approach the government has adopted.

Senator SCHACHT—It is a separate issue.

Mr Stevens—It is a quite separate issue. The regulatory regime has to be a robust regime, whether Telstra is in public or private ownership.

Senator SCHACHT—I agree.

Mr Stevens—We have taken the view that the regulatory regime is, in that sense, independent of the ownership of it; and it is important to ensure that the regulatory regime is as robust as possible to ensure that competition emerges.

CHAIR—Can I just ask a question?

Senator LUNDY—Oh well, you know, I will come back to mine later.

CHAIR—How does the regulatory regime compare with what was available when Labor was in government?

Senator LUNDY—Kay, let me finish my questions, please.

CHAIR—No; I can ask a question. I have permitted people to ask—

Mr Stevens—There are a lot of very significant differences between the post-1997 telecommunications regime and the earlier telecommunications regime, particularly in regard to the ability for new players to enter the market. Before 1997, we had a duopoly in regard to Optus and Telstra, and three mobile carriers: Vodafone, Optus and Telstra. In the post-1997 regulatory regime, there is open entry into both the mobile and other areas of telecommunications. That is a very significant difference between the two regimes. There are also differences

in the regulatory regime with regard to how it is administered. The anti-competitive behaviour provisions are different, as befits a more mature market and a more open market.

There is also a lot more emphasis on—as there has to be—access regimes for all players to enable them to get access to facilities. There is a very comprehensive access regime in the post-1997 telecommunications regime which is being administered by the ACCC. We have a number of additional pro-competitive measures which are being introduced—number, portability, preselection, and others—which are designed to ensure that we can maximise competition.

In addition to that, there are a number of specific consumer safeguards which are now part of a system and which were not part of a system beforehand. There is the question of untimed local voice calls for business, residential and charity customers, a customer service guarantee, and protection for residential consumers where services are not being provided. So I think there is a range of very significant differences between the two regimes.

Senator LUNDY—Going back to my point about regulatory risk, your submission presents an analysis of the natural monopoly that currently exists in Australian telecommunications and presents a view that, indeed, a natural monopoly is not in existence under a definition that you provide. Looking specifically at the regional local loop, how can you argue at this point in time that a natural monopoly is not in existence?

Mr Stevens—We are arguing that the regional local loop, and the local loop more generally, is not a natural monopoly. That is not to say that at this particular point Telstra does not have a dominant share of that market. What we are saying though is that there is a range of technologies available to deliver services to both the regional local loop and the metropolitan local loop. There is evidence overseas that the services are being implemented and that they are offering customers choice at the local loop level. So, essentially, we are suggesting that a natural monopoly does not exist because of the ability of competitors to enter that market, the ability of technology to enable that entry, and the experience overseas which shows that the technology and the entry are happening in a number of countries.

Senator LUNDY—Mr Stevens, is it true that DoCA's definition of a natural monopoly is contingent upon that specific area being profitable and, therefore, attracting competition?

Mr Stevens—I will look at our definition now. I think that the definition we use is on page 146 of the paper, volume 1, where we talk about the local loop not being a natural monopoly for a number of reasons. It says:

- . there is no single best technology for local communications;
- . continuing technological change means that the best potential technology or mix of technologies is not known;
- . the interconnection of networks can eliminate natural monopolies; and
- . competing facilities have already supplied competing local communications services.

Senator LUNDY—Before you get to that point, where is it factored into your definition whether a particular market or service is profitable?

Mr Stevens—I think that the distinction we are trying to draw is between a natural monopoly which has these following characteristics, and what the current situation is. In our view it is not a natural monopoly. I accept that at the moment Telstra has a very large market share, but for the reasons we have spelt out we do not believe that this is a natural monopoly. There is the potential to enter and that is in a sense what we are getting at when we say that it is not a natural monopoly.

Senator LUNDY—Please explain the logic of that. Taking what you just said on board and the fact that now you are wavering a bit and calling it a strong market share, and applying your definition to the regional local loop, given that the services to that particular sector are maintained through a universal service obligation and are largely cross-subsidised, how does this definition apply to that? And, therefore, how can all of the telecommunications regime be grouped in what you have constructed as a very broad definition that actually underpins the logic of your argument supporting the subsequent privatisation of Telstra?

Mr Stevens—The first point I would make is that the universal service obligation aspects apply to only a very small part of Telstra's network. Most areas are not included in the universal service obligation aspects.

Senator LUNDY—Yes, but it is quite a critical part in the current debate, Mr Stevens.

Mr Stevens—There is a small part which is included in the universal service obligation, where it is not a commercial proposition to do it, and it is a very small part of the market. The overall level of subsidy under the USO is some \$250 million, I think, which is a very small component of the overall revenues from telecommunications companies in this industry. So we are talking about a very small part of the country. In those circumstances, yes, there could well be one deliverer of services and, indeed, the Telecommunications Act 1997 permits us to tender for those services to ensure the best possible outcome.

Senator LUNDY—Indeed. So you acknowledge that we might be talking about this very small part as, in fact, being a natural monopoly based on those circumstances?

Mr Stevens—There was natural monopoly, I suppose. Clearly, there is part of the network which is not commercial, a very small part of it, and there we are looking at tendering out and providing services to that group. Our point really goes to the great bulk of service delivery in this country.

Senator LUNDY—Yes, indeed. But I think that, in the context of the current debate and the concerns of consumers in those areas that there is a perceived disadvantage to their levels of service, this issue needs to be explored in the fullest possible way. Taking it to the next logical step presented in your submission, in terms of the role of regulations, if we have identified this small sector of the market that is not commercially profitable or viable in its own right—it can only be sustained through a regulation or USO—how do you justify then your earlier statements that the overall regulatory regime has little to do with ownership and privatisation, given what we are actually dealing with is a transitional process? You cannot sit there and present your arguments as though Telstra is either partially privatised or fully privatised. What I am interested in is your role in the regulatory regime in this transition period. How will you reconcile those two issues?

Mr Stevens—If I can respond to the concerns about the universal service obligation, I will make a number of points. Firstly, it is not a static concept. The commerciality of various services changes on a regular basis as new technology is introduced. Satellite technology, for example, has enormous potential in delivering services to what have traditionally been regional and remote areas. So we are talking about a concept which changes depending upon technology.

Secondly, the delivery of services in that area does not rely upon a government owned telecommunications company. It relies upon the regulation which ensures that those services are delivered. There is, as I say, potential for other organisations to deliver those services in these areas; it does not have to be Telstra. It is not a requirement that it be Telstra and, indeed, we have a potential to tender out delivery of those services in those areas. I would argue that

the delivery of services under the USO is not in any sense prejudiced by the ownership in private hands of Telstra.

Senator LUNDY—Just on that point then, how would you apply an efficiency assessment to the notion of tendering out the provision of infrastructure in those non-profitable areas? Can you comment on that?

Mr Stevens—One way we could do it—and this is only one possibility—would be that we specified services and then asked organisations to give us a proposal on how they will deliver those services and at what cost. It then becomes a competitive process among, perhaps, a number of alternative technologies even in terms of delivering those services.

Senator LUNDY—Arguably the only opportunity for competitors under those circumstances would be for those with new technologies because—and please correct me if I am wrong—I cannot see you advocating dual infrastructure in the rural areas of Australia.

Mr Stevens—As I said earlier, technology is changing quite rapidly and that is one reason in the 1997 Telecommunications Act provision is made to tender out those services.

Senator LUNDY—So the only effective way that you could introduce competition in those areas is if you invited tenders from people who offered a new technology to provide those services?

Mr Stevens—When we talk about new technology that is, perhaps, not the only reason which might make it possible for alternative suppliers to enter the market. I am not talking about rolling out optic fibre to every community in the Kimberley, for example.

Senator LUNDY—What is the alternative?

Mr Stevens—As I say, satellite technology is the obvious alternative in this area.

Senator LUNDY—That is right—new technologies. At least we have established what the process would be for competition out there. If it is a question of the government calling for tenders with the contingency that new technology is involved, we start getting back to technology with specific regulation to enhance competition.

Mr Stevens—We can call for tenders without having to be convinced that there is new technology. I use that as an example of one way in which an innovative solution might be supplied, but it is not the only way.

Ms Holthuyzen—You have got the access arrangements as well. People could access Telstra's infrastructure and they could, perhaps, provide a competing service. All we are saying is that those options are used.

Mr Stevens—We have not yet tendered out a USO.

CHAIR—Senator Margetts, have you got any questions for the department?

Senator MARGETTS—I just wanted to know whose responsibility the department thinks it is to advise customers on the right to know about their rights, especially compensation rights?

Ms Holthuyzen—If we are talking about the CSG arrangements, the ACA has given directions to the carriers for people to be informed and, because there have been some concerns expressed about whether customers are being fully informed of their rights, the minister has written to the ACA again asking them to ensure that customers are given their rights to information about compensation. In Telstra's case, some of that information about what their rights are for compensation under the CSG is printed in the Telstra White Pages.

Senator MARGETTS—So that is the only way—the Telstra White Pages?

Ms Holthuyzen—I think that each of the carriers has its own way of publicising what the rights are but, certainly, the ACA has written to the carriers telling them that they must tell customers what their rights are.

Senator MARGETTS—Do you agree with Telstra—or what was reported from Western Australia about Telstra—that these guarantees should be applied only to new customers?

Ms Holthuyzen—No, that is not correct. They apply to all customers.

Senator MARGETTS—So, if Telstra were acting in that way, it may well be acting incorrectly. What kind of action could or should be taken if that were the case?

Ms Holthuyzen—If there has been a breach of those things, that should be brought to the attention of the ACA so that they could deal with it. It relates to all customers, not just new customers.

Senator MARGETTS—We were also given examples from Western Australia yesterday where a mobile phone network that was set up was being charged a minimum \$300,000, I believe. Evidence was given that it could be provided for around \$60,000. Do you have any comments in relation to that?

Ms Holthuyzen—I do not have any information in relation to that particular issue, but I think that that was raised by the communications experts group and we are going to look at those comments and provide some response by the end of the week.

CHAIR—Senator Margetts, we have asked the department to give a full response to the communications experts group submission.

Senator MARGETTS—Fine. I also wanted to ask about farms, small businesses and schools. I noticed that you said that the universal service obligations apply only to a very small part of the Telstra network and to a small part of the country, and I thought that that was quite extraordinary. I think, geographically, it is a large part of the country—it might be a small number of people. Should farms, small businesses, or schools, be part of universal service obligations and, if not, why not?

Senator SCHACHT—Madam Chair, I do not want to interrupt, but I asked the question one hour ago about the extension of the universal service obligation based on evidence given to us yesterday about schools, et cetera. The department said they were going to take that on notice and come back to us with a response.

Senator MARGETTS—That was when I had not been linked up to the digital. Sorry about that, but I cannot be reading minds across the country.

Mr Stevens—I would like to make one point clear. We are not suggesting that the universal service obligation does not include obligations that apply to all Australians. The point I was responding to was—

Senator SCHACHT—Australians in the bush we are talking about here—country high schools.

Mr Stevens—I understand the point, but I was responding to a slightly different point, Senator, which was that there was a suggestion that the USO only applied to a very small number of people. The USO has provisions that apply to a range of organisations and a range of people. My response was in regard to Senator Lundy who was talking about how commercial it might be to provide local loop services in particular areas. That is what I was responding to in regard to that particular issue, not, for example, the standard telephone service which applies to all Australians.

Senator MARGETTS—The answer I wrote down was that the USO only applied to a very small part of this Telstra network. That is what you actually said. If you had said something different I would have written down something different.

Mr Stevens—I am trying to clarify those comments now.

Senator MARGETTS—Does the department have any view on the adequacy of the ACA now the ACCC? I have heard some comments you have made but we have also heard a great deal of concern that the ACCC does not have the ability to take independent action or are not taking independent action in the same way perhaps that Austel might have done, or that people would prefer them to be able to do. You should be able to make independent moves if there is a particular action taking place on behalf of the telcos and you should not have to rely on perhaps an arbitrary action by a minister.

Mr Stevens—There are some differences between the regulatory regime post 1997 and that applied to it before 1997, which do in fact go to some extent to how the regulators administer the environment and the regulatory regime. But we have every confidence in both the ACA and the ACCC's ability to administer the regime.

Senator LUNDY—I would like to make reference to page 152 of your submission in terms of the stamp—1.5, Regulatory approaches to protecting the public interest. I would like to seek clarification on a number of assertions that you have made. You state:

The various regulatory devices that governments have employed to prevent monopolies from abusing their market power have provided little incentive either to increase technical efficiency and quality of service or to charge the lowest possible price.

Do you stand by that?

Mr Stevens—I think what we are saying there is that competition is the best—

Senator LUNDY—You go on to make a comment about competition but you actually made that assertion. The next statement in your submission that flows directly on from that statement is:

Competition, however, both constrains the market power of individual telecommunications carriers and carriage service providers and creates the incentives for service providers to maximise the benefits to end-users at minimum costs.

Obviously, that was the explanation that you were then going to provide.

Mr Stevens—Yes. True.

Senator LUNDY—Given that you previously stated that ownership in the context of the telecommunications carrier is irrelevant in terms of the regulatory regime that applies and the fact that we have established that there is a small section in the Australian telecommunications market that is not commercially viable—not profitable, if you like—and therefore does not attract competition that fulfils the logical sequence of issues that you have presented in your argument, what is the mechanism or the lever available to governments to actually provide an efficient, effective and equitable service to that particular sector of the market? Is it a fair thing to say that that is the key to the issue of ownership and that is where it comes back to—the government involvement in the management of Telstra?

Mr Stevens—No, I do not think so.

Senator LUNDY—Can you explain the logic of how you reach your conclusions using those issues?

Mr Stevens—What we are saying, in the first sentence, is that, where there is a monopoly provider of services and no freedom of entry into the market, it is very hard for regulation

to provide incentives to maximise competition and to maximise efficiency. We believe that entry into the market and competition provide the incentives to maximise efficiency. Where there is a single provider of services, as is the case of some USO services in some areas, that is one reason why we have introduced the system of tendering so we can introduce competition even in those areas where there may only be one provider of services.

Senator LUNDY—We have already spoken about that. That is not happening yet and it is highly contingent on the introduction of new technologies; is that not true?

Mr Stevens—I think we said it is only one aspect of it. The provision is in the legislation to do it.

Senator LUNDY—Can you specify the other critical aspects on that point, please?

Ms Holthuyzen—The point that we are making is that the actual fact that the universal service obligation exists, that the government has legislated for that and that the legislation enables the universal service obligation to be varied or increased over time according to changes in the marketplace is one of the regulatory mechanisms that the government uses to ensure that people in rural areas or people where there is less competition can get a defined level of service or at least a minimum basic level of service which can be varied over time.

There are a range of regulatory mechanisms not associated with the ownership of Telstra, like the universal service obligation regulations that the government has about price capping of Telstra which does not relate to Telstra's own issue, and some of the other mechanisms that the government has put in place in terms of rebates on prices to rural customers through the price cap regime, where the government can enable and ensure that rural and regional Australia gets the benefits and particular services that have been delivered to the city, but it does not depend on Telstra being in public ownership. Telstra in private ownership still has those obligations and requirements placed on it and across the industry at large.

Senator LUNDY—With that regulatory regime I would just like to remind you of your earlier comment that, because we are in a process of transition, the state of the regulatory regime is one that cannot be currently assessed in terms of partial privatisation and full privatisation, given that your task with the role of managing the regulatory framework is in transition. Approaching it from that perspective, which I sincerely hope that you are, how do you rationalise or justify the delay of the implementation and resolution of the nature of what that universal service obligation is?

Mr Stevens—There is a universal service obligation regime at the moment.

Senator LUNDY—I understand that but it is under review and the standard telecommunications service definition is something that you stated is due by 30 September.

Mr Stevens—There are a number of different issues which are coming together here. There is the need to review the standard telephone service, which is what I talked about in regard to the 30 September review and is an obligation under the telecommunications act. In addition to that Telstra has to produce a universal service plan which is what we are talking about at the moment with Telstra which covers the universal service obligations and the complete range of those obligations for all Australians. We hope that will be done in the very near future.

Senator LUNDY—Can you clarify what 30 September is?

Mr Stevens—That is the review that is required under the telecommunications act in regard to digital data capability.

Senator LUNDY—That you stated earlier had no impact on the issue of privatisation or otherwise?

Mr Stevens—We would be conducting that review whether Telstra was in public or private ownership.

Senator LUNDY—I appreciate that but we have since come a long way from there and you have told the committee that the relationship between the regulatory devices that the government employs and the move to full private ownership is actually quite critical.

Mr Stevens—I am not sure I said that in those words.

Senator LUNDY—That is certainly my interpretation.

Mr Stevens—What I was trying to say—and if I got it wrong I apologise—was that the regulatory regime is very important and the main way in which we regulate telecommunications in this country. It does not matter whether Telstra is in public or private ownership, that regulatory regime is the way in which we regulate competition, encourage competitors and encourage lower prices. That is the point I was trying to make.

Senator LUNDY—The point about your definition of natural monopolies and the existence of natural monopolies is that the only way that they would change from natural monopolies to something else is through the introduction of government intervention in the calling of a tender to provide new services of a nature that employs some sort of new technology. Can you see my point?

Mr Stevens—Yes.

Senator LUNDY—There is quite an inconsistent flow to what you are saying to the committee.

Mr Stevens—I am not trying to be inconsistent. Let me try to clarify it and see if we can get it right. We argued that the local loop is not a natural monopoly for a number of reasons, none of which have anything to do with the ownership or otherwise of Telstra. They go to the introduction of new entrants into the market. They go to the changing range of technologies available to deliver the services. They go to the nature of the regulatory regime which is applicable.

Senator LUNDY—Yes. You qualified that earlier in terms of some areas in the regions—

Mr Stevens—I then said there are some areas in this country where it is not commercially viable for the services under the universal service obligation to be delivered in a commercial manner. In those circumstances you may have one deliverer of a service but at that point it is possible to introduce competition through tendering that obligation on the market. I also mentioned there are quite exciting new technologies happening which will change both the cost and nature of those service deliveries. That is only one aspect of the ability to compete in a tender for the universal service obligation provision in an area.

Senator LUNDY—So what are the other aspects? You went over this point previously. What are the other aspects?

Ms Holthuyzen—The issue fundamentally comes back to the point that the universal service obligation is an obligation in the telecommunications act for the whole industry which is why we come back to the issue of why ownership is not relevant.

Senator LUNDY—That was not my question. My question was going to specifics of how else you would apply the USO to a non-profitable area of the telecommunications infrastructure?

Ms Holthuyzen—One of the other mechanisms is the access regime, the access proposals. There is an access regime in place where Telstra has to give access under certain conditions to its network and allow other service providers into it.

Senator LUNDY—That access regime is contingent upon penalties on a standard service not having been provided and obligation of a minimum service in the first instance. How is that sustained?

Mr Stevens—The point is that Telstra currently has infrastructure in the ground. If the USO got tendered out to somebody else there might be some possibilities of using that existing infrastructure in combination possibly with new technologies to provide non-standard telephone services. If you were going to construct a tender obviously you would have to look at a range of issues but how you treat existing infrastructure is obviously an issue.

Senator LUNDY—Would compensation to Telstra be part of that?

Mr Stevens—Obviously, that is part of the regime.

Senator LUNDY—Is that the most efficient way to deliver services to those areas?

Mr Stevens—We are not sure. We would have to find—

Senator LUNDY—I would make a pretty good guess that if you start paying carriers compensation for imposing a competitive regime across the top of their services then you start to get in to a highly contradictory area of policy.

Ms Holthuyzen—It is not compensation.

Mr Stevens—Even if somebody else were to win a tender they might want to make use of Telstra infrastructure and Telstra might want to sell it to them anyway.

Senator LUNDY—I am sure they would if it was not making any money.

Mr Stevens—That is the point. It is possible for new entrants to basically make use of existing technology that is already there. It may be possible for them to make use of that if it makes sense. It is not just a question of taking in new technologies.

Senator LUNDY—All of this would involve obviously your particular section to a high degree and other departments and basically a pretty heavy-handed government intervention.

CHAIR—Senator Lundy, I am going to let Senator Tierney speak now and you may have to put that one on notice because we have been sitting patiently. I have asked one or two questions. We have been here for an hour.

Senator LUNDY—I do have one more which does go to regulatory—

CHAIR—Senator Tierney has been agitating for questions. You can put it on notice if we do not finish.

Senator TIERNEY—Mr Stevens, does the government need to have majority ownership in Telstra to achieve its telecommunications regulatory objectives?

Mr Stevens—No, I do not believe it does, Senator. I believe the regulatory regime stands on its own two feet regardless.

Senator TIERNEY—We need to put these things on the record.

Senator SCHACHT—Put it on notice.

CHAIR—Order! Nobody has actually said your question is a waste of time, Senator Lundy. Let Senator Tierney ask his question without interjections. We have sat quietly while you have asked questions. Some of us may have questioned the value of those questions, but we were not rude enough to do so.

Mr Stevens—The regulatory regime stands on its own two feet, regardless of whether Telstra is partly privately owned, fully privately owned or in public ownership. The structure we have put in place in the 1997 telecommunications regime is a robust structure which has extraordinarily pro-competitive features and it is providing a very firm basis for competition to develop in this country. It does not rely upon ownership of Telstra.

Senator TIERNEY—Is it fair to say that historically there are good reasons which no longer apply for government ownership of a monopoly position in telecommunications?

Mr Stevens—Yes, if you look traditionally across most countries, with one or two exceptions—perhaps the USA particularly—telecommunications carriers have been natural monopolies and have tended to be owned—

Senator SCHACHT—ATT had a monopoly anyway. It was just privately owned—

Senator TIERNEY—Senator Schacht, we listened to you and suffered in silence for hours this morning and yesterday.

Senator SCHACHT—Very good. You will suffer a lot more too, I can tell you.

Senator TIERNEY—Let's listen to the answer.

Mr Stevens—Traditionally there has been a lot of government ownership in those countries in regard to the telecommunications carrier. As competition has emerged, governments have realised that ownership of the telecommunications carriers is not the most effective way of delivering quality services and competition to consumers in those countries. As a result, there has been a worldwide move to privatisation of the previously government owned telcos.

Senator TIERNEY—It is no longer a natural monopoly, but it does have significant market power, and the ACCC does have very significant powers to deal with abuses. Will anything change between this current arrangement and a full ownership under Telstra?

Mr Stevens—I do not believe so. I think the regime is, as I say, independent of the ownership of Telstra. The powers that are available under the Telecommunications Act will be exercised whether Telstra is partially privatised or fully privatised.

Senator TIERNEY—One of the issues that has been of a fair bit of concern in this inquiry has been that the direction powers of the minister are being removed. You refer to that on page 18. But isn't true to say that the government still has power under the system under the regulatory regime we are establishing to direct Telstra, or any other carriers, through the imposition of licence conditions?

Mr Stevens—Yes, certainly the overall telecommunications regulatory regime provides a range of powers for governments to intervene on the provision of services through the universal service obligation and licence conditions. All of those are applicable to carriers, regardless of ownership.

CHAIR—Can you give us an example of some of the concerns that people have had about things they would like to see the minister give directions on in the hearings? I think you have read some of the transcripts of the hearings already. Are there any examples where, if a

situation arose that licence conditions could be changed, it could give the government power to direct through the licence conditions?

Mr Stevens—For example, on roll-out, ISDN capability could be done for a licence condition and has indeed been done to date.

Senator SCHACHT—But most farmers cannot get it because they are more than seven kilometres from a telephone exchange.

Senator TIERNEY—Thank you for your interjection.

Senator SCHACHT—It is true.

Senator TIERNEY—Are there any changes to regulatory safeguards when we move into full privatisation of Telstra? Things like untimed calls, directory assistance and public phone service guarantees have been brought up by witnesses as issues of concern.

Mr Stevens—All of those safeguards are maintained as we move to private ownership.

Senator TIERNEY—Could you perhaps describe for us how the customer service guarantee will work compared to what was in operation under the last Labor government?

Mr Stevens—Under the previous regime, there was not a customer service guarantee in the way we have one here. This is an innovation of the post-1997 Telecommunications Act. For the first time, it gives the customer the right to have recompense for service failures. It determines minimum performance requirements and provides in the proposed amendments power for the ACA to take action where there are systemic problems.

CHAIR—Do you know how that compares with other countries—say, America or Britain—in terms of this customer service guarantee?

Mr Stevens—I do not think America has a customer service guarantee as we have.

CHAIR—I know.

Mr Stevens—I think the UK has a customer service guarantee, but I believe the customer service guarantee we have here is as good as anything in the world.

Senator TIERNEY—Would it be true to say that, given the amendments in the Telecommunications Act last year and the number of regulatory measures put in place, under a partially or fully privatised Telstra customers have a higher degree of protection than previously existed under a full Telstra monopoly?

Mr Stevens—Yes. There is no doubt that the legislation provided for very significantly enhanced customer service safeguards than previously existed.

Senator TIERNEY—What does the universal service obligation mechanism do to the prices of services in regional Australia compared to the true cost of providing that service?

Mr Stevens—Where the services are provided by the universal service provider, the cost of those services are shared with the industry and, as a result, the customer is able to obtain cheaper services than would otherwise be the case.

Senator TIERNEY—In being paid to be connected in more remote places, as opposed to metropolitan places, there is cheaper than the full cost connection.

Mr Stevens—That is certainly true. It is also protection under the price cap legislation as well.

CHAIR—Are there any international precedents for price caps?

Mr Stevens—Yes. I am aware the United Kingdom certainly has them and other countries may as well.

Senator TIERNEY—The industry development plan arrangements have been brought up in earlier hearings as a concern. Could you outline what happens to those when Telstra moves into full private ownership?

Mr Stevens—There is absolutely no change to those obligations. They are contained within the Telecommunications Act 1997. They apply to all carriers and there is absolutely no change to those obligations when Telstra moves to full private ownership.

Senator TIERNEY—We have put in place recently a number of competition regulations. What effect would moving to full private ownership have? Is there any change in the enforceability of those sorts of regulations?

Mr Stevens—There is no change. Those regulations are contained in various acts: the Trade Practices Act as well as the Telecommunications Act. They are fully maintained as we move to private ownership.

Senator TIERNEY—Is Australia's policy approach to telecommunications consistent with international practice?

Mr Stevens—Yes, it is. There are World Trade Organisation standards which we have been asked to sign on to in regard to an open transparent regulatory regime. Our regime complies with those standards. I believe it is one of the best in the world.

Senator TIERNEY—Could you name any countries that are maintaining full public ownership of their telco?

Mr Stevens—There are very few. I am sure Cuba was.

Senator TIERNEY—I think Cuba actually sold half of it to Mexico, or Mexican companies bought half of it.

Mr Stevens—I think North Korea still has it publicly owned. We would have to take that on notice. There are very few.

Senator TIERNEY—So is the last bastion of full communism probably the only one?

Mr Stevens—There are very, very few.

Senator TIERNEY—Thank you very much.

CHAIR—Some people have said that the amount of competition in local loops is not adequate. That has been coming through the submissions. Do you see any likelihood of increasing competition on a local loop or layers?

Mr Stevens—Yes, I do. I think there is the likelihood of increased competition on the local loop coming from a number of sources.

Senator SCHACHT—You are not giving the Northgate example, are you, like the minister used to? That has all collapsed. You are more sensible than that, Mr Stevens, I know.

Mr Stevens—I was going to talk about a number of opportunities that are emerging—for example, wireless technology which is opening up local loop competition. In the United Kingdom, Ionica is an example where they provide local loop services for a wireless technology. The auction which is currently under way of Spectrum will provide opportunities

for new players which can be used for a range of possibilities including local loop competition. I believe that, at the ATUG conference yesterday, Mr Anderson indicated that Optus was looking at taking on many more new customers on its cable network, which provides competition.

Senator SCHACHT—They have been saying that for a long time. I would not put your house mortgage on that one.

CHAIR—Mr Stevens, a local electricity company in my area came to see me last year and said that they were hoping to have telephony down the electrical lines. Was that a daydream or is that a possibility?

Senator SCHACHT—You get electrocuted when you use the phone! That would be a consumer friendly issue, would it not?

Mr Stevens—There is certainly an interest on the part of utilities to offer a range of services. In the ACT, the Electricity and Water Authority is looking at providing local calls through a broadband roll-out to individual homes. I believe they have undertaken a trial, or are about to undertake a trial, involving an expansion of two or three suburbs. There is a range of these sorts of issues which are emerging fairly rapidly. What is happening is that, as we have allowed new entrants into the market, people are looking at the opportunities and are exploring the technologies. I believe that, as a result of that, we will see more and more competition in the local loop over the next few years.

Senator LUNDY—My question relates to what I was referring to earlier: what analysis has DoCA looked at regarding the implication of the regulatory regime on the assessment of risk by Telstra in their move to privatisation? Have you done any analysis as to the degree or quantification of impact of that regulatory risk associated with the privatisation?

Mr Stevens—I am not sure that I really understand the question. Are you talking about the risk to Telstra of a regulatory regime?

Senator LUNDY—Yes.

Mr Stevens—In other words, is it likely that potential buyers of the shares will be concerned about regulatory risk? Is that what you are getting at?

Senator LUNDY—Yes. Have you done any analysis of that?

Mr Stevens—I think the Office of Asset Sales and Information Technology Outsourcing has done a lot more work than we have in regard to—

Senator LUNDY—I know they have looked at it; I am asking you?

Mr Stevens—We have relied upon their assessment of what potential buyers of the shares are concerned about. They are the organisation which has done that sort of work.

Senator LUNDY—Has the department had any discussions with any other stakeholders in this process—be it ABM, AMRO or others—in relation to what Senator Schacht was referring to earlier about the matters in the article by Steve Lewis in today's *Financial Review* and further regulatory considerations?

Mr Stevens—We have not talked directly to the advisers—to OAS—in regard to those issues. As I say, we have had a very preliminary discussion with the people who have suggested these changes.

Senator LUNDY—Who have you had preliminary discussions with?

Mr Stevens—We have talked to some of the people who have suggested it, so we can better understand what they are suggesting in the first instance. It is not always clear just looking at newspaper reports what people might have in mind. So the first issue is to understand what they have in mind.

Senator LUNDY—Have you had discussions with OASITO on this matter?

Mr Stevens—No. That is because we have not got to the stage of fully understanding the proposals yet. We have to assess those ourselves and there will be those discussions clearly before we reach any views on the issues concerned—not just of asset sales but also with the Treasury and others. Some of the proposals go to amendment of the Trade Practices Act. There are a number of people that we would have to talk to to find out their views before we could even form definite views.

Senator LUNDY—Have you had any communication with the ACCC on this matter?

Mr Stevens—We have been talking on a range of issues with the ACCC for a number of months—yes. Because they are the regulators, we are obviously interested in their views and how the regime is going.

Senator LUNDY—And this was one of them?

Mr Stevens—We have certainly been asking their views about the regime and their assessment about its effectiveness, yes.

Senator LUNDY—But this was one of the issues?

Mr Stevens—In regard to particular issues, yes.

Senator LUNDY—Thank you.

Senator CARR—Mr Stevens, does the department acknowledge that there has been a decline in the quality of service provided by Telstra since the partial privatisation?

Mr Stevens—I think the most recent figures presented by the ACA certainly showed that, for that particular period, there was decline in service over a previous period.

Senator CARR—Would you acknowledge that there has been a significant decline in southern Australia?

Mr Stevens—I would go on to say, though, that we would not suggest that change or the figures reflect the fact that Telstra has been partially privatised.

Senator CARR—Will you acknowledge that there has been a significant decline in the quality of service in southern Australia?

Mr Stevens—I think some of the figures show that, in regard to the previous period, yes.

Senator CARR—How does that decline relate to the company's claim that this is due to weather conditions?

Mr Stevens—I think that is clearly a very major factor. There have been significant weather conditions that Telstra has referred to.

Senator SCHACHT—Is that extreme weather conditions?

Senator CARR—In southern Australia?

Mr Stevens—I believe there have been bushfires which have concerned them. I do not have a full list of the concerns that Telstra have raised with us, but they have certainly made the

point to us and to the public that their quality of service has been affected by some of these factors.

Senator CARR—Are you aware of the submissions put to this committee that suggest that, in January this year, there were declines in Victoria of some 12 per cent below the levels obtained 12 months ago. Similarly, in terms of the specifics, for instance, it has been put to this committee that, in the Victorian-Tasmanian country region, it shows the one-day full clearance rates of 56 per cent for small business and residential customers in January this year and rates of 62 per cent for large corporate customers in the same period. The percentage of pay phone faults cleared in the same day fell to 44 per cent in the same month, a decline of 30 percentage points since February 1997.

Mr Stevens—As I said, it is very hard to look particularly at the figures, but overall, there is no doubt that the ACA figures did show a decline in performance.

Senator CARR—These are figures in this year, post the ACA reports, which suggest a further decline on top of what the ACA has said.

Mr Stevens—I am just trying to find the reference.

Senator CARR—Yes, I can draw your attention to page 14 of the CEPU submission.

Mr Stevens—I have got the page.

Senator CARR—And it is 2.2, service problems, fault reporting and restoration of services. I might suggest to you that a similar pattern emerges in 2.3, 2.4, 2.5, 2.5.1, directory assistance and so on. It goes through a whole range of services provided by Telstra, all indicating significant declines in the quality of service.

Mr Stevens—I think the figures you are referring to are figures that the union are quoting. They are not figures the ACA have released that I am aware of.

Senator CARR—No, that is the point I am making to you, Mr Stevens. I am asking: is the department aware of this submission and is it aware that, since the ACA report in December, figures provided in the Victorian-Tasmanian country region suggest further declines over and above what the ACA has been reporting?

Mr Stevens—We are aware of a submission and we are aware of the figures in it. I believe there are probably reasons that Telstra would advance as to the reasons for some of those figures.

Senator SCHACHT—The whole of Victoria was in a bushfire in January, is that what you are going to tell us?

Senator CARR—Bad weather in Melbourne, was it? There has been a drought?

Mr Stevens—No, I was not saying that. I am simply saying, I am sure Telstra—

Senator SCHACHT—What were the extreme weather conditions in Victoria in January that had that level of fault? That is the example you mentioned earlier.

Mr Stevens—If you are referring to the figures in—

Senator SCHACHT—You mentioned bushfires. Was the whole of Victoria under a bushfire in January?

Mr Stevens—No. As I said at the start, there is no doubt that the figures did fall. I think Telstra has accepted that. It has accepted that it needs to do better in some of those areas. It

has pointed to climatic conditions as being part of the reason, only part. Clearly, there were not bushfires in every area of Victoria. The concern that we have about those figures is illustrated by the customer service guarantee changes we have produced in the amendments. We are concerned about quality of service.

Senator CARR—So you acknowledge that the customer service guarantee under the present legislation is inadequate?

Mr Stevens—We believe it can be improved, yes.

Senator CARR—The current arrangements are inadequate, though?

Mr Stevens—We believe we can improve them, yes.

Senator SCHACHT—Could you take this next question on notice. Senator Carr has given an example of the situation in Victoria in January. Is that an example of a systemic reduction in service which would be eligible for a fine of up to \$10 million?

Mr Stevens—We can have a look at it, but the ACA would want to independently assess the figures and look behind the reasons for them.

Senator SCHACHT—I think the consumers would be rather interested to know whether the diminution in service that occurred in January was backed up by the ACA review. Is that a systemic reduction in service where the ACA would then launch an action against the carrier—in this case, Telstra—which could lead to fines of up to \$10 million?

Mr Stevens—Quite clearly, I believe that, if it were backed up by the ACA's analysis, they would be very concerned about that and direct Telstra to—

Senator SCHACHT—I know that everyone is very concerned, but we want action.

Mr Stevens—Yes, and I am quite sure they would take action to direct—

Senator SCHACHT—Could you come back to us on that, because we need more definition about this?

Mr Stevens—We will take that on notice.

Senator SCHACHT—Thank you.

Senator CARR—Mr Stevens, it has been put to us that in January this year the number of agreed commitment dates, ACDs, was 12 per cent below the level of 12 months ago. This is in Victoria. This is not an area subject to extreme weather conditions; this is not a remote part of Australia—and that is the other argument, we understand. Perhaps you could explain to us why there has been a 12 per cent drop from the level of 12 months ago in the number of connections, agreed dates?

Mr Stevens—I think those are questions that, frankly, only Telstra could give you a reason for.

Senator CARR—Yes, but what is the department's view? I am asking you if you can assist the adequacy of the Telstra explanation on those matters?

Mr Stevens—We would be very happy to look at the Telstra explanation on that. I am sure you have asked Telstra for an explanation on that.

Senator CARR—We certainly have.

Senator SCHACHT—We certainly did.

Senator CARR—Furthermore, I would ask you, Mr Stevens, if you could look at each of the claims contained in this submission and give a departmental assessment of the accuracy of those claims, because they are based on internal documentation from Telstra which I am sure you can get. Everyone else seems to be able to get it, so I have no doubt that you will be able to have a look at it. Can you assess the accuracy of Telstra's claims that this is down to bad weather?

Mr Stevens—We will take the issue up with Telstra.

Senator CARR—What is the relationship between this declining level of service and the reduction in staff numbers in the Victorian-Tasmanian region?

Mr Stevens—Again, I think the reasons for the decline have to come from Telstra themselves. We are not in a position to—

Senator CARR—I am asking you: what is the relationship between the declining service and the reduction of nearly one-third of the company's staff?

Mr Stevens—We do not micro manage Telstra. There have been declines in the number of employees in Telstra—that is a fact—but we are not privy to exactly which people have gone and from where. That comes down to the responsibility of Telstra management and the board to make those judgments.

Senator CARR—I would ask you for an assessment of the accuracy of the submissions, because it is clearly asserted that there is a relationship between the declining level of service and the declining number of employees to actually maintain the service and that that is a direct consequence of Telstra's change in its emphasis in terms of the maintenance of the share price. I would ask you to make an assessment of that claim.

Senator Schacht would like to ask some more questions, but I want to be clear about this: what is the department's assessment of Telstra's current share of the Australian telecommunications market; what percentage?

Mr Stevens—It varies across particular sectors.

Senator CARR—Yes, but what is the total?

Mr Stevens—We will take that question on notice. I do not know what the total is.

Senator CARR—Thank you. Can you indicate to me, as of 6 May, what is the percentage—

CHAIR—Senator Carr, I think you should put your next question on notice. We are now running nearly a quarter of an hour over time.

Senator CARR—If I can ask the question then maybe we can get it on notice. What is the current percentage—as of 6 May—of the Australian population that has access to a competitor to Telstra on the local loop? Is it the case that no-one does; what percentage do you think it is?

CHAIR—Would you take that question on notice, Mr Stevens, because we are now running behind time?

Mr Stevens—Yes.

Senator SCHACHT—Mr Stevens, when did the department lodge a cabinet submission proposing the full privatisation of Telstra?

Mr Stevens—I do not think that we normally discuss those issues here, Senator.

Senator SCHACHT—Did the department lodge any submission concerning a proposal for the full privatisation of Telstra?

Mr Stevens—Again, you are going to internal workings of cabinet. I will take it up with the minister as to what we can provide.

Senator SCHACHT—I would appreciate it if you would do that because as I understand it there was no policy document, cabinet submission, from the department or the minister to cabinet in favour of the full privatisation of Telstra. Is that correct?

Mr Stevens—As I say, I will take it up with the minister as to what information we can provide you with on these issues.

Senator SCHACHT—Is it true that the Prime Minister made this announcement at the Liberal Party conference in Queensland without consultation with the Minister for Communications?

Mr Stevens—Again, you are asking questions which are totally inappropriate—

CHAIR—It is not appropriate—

Senator SCHACHT—As the head of the department, will you raise this with the minister?

CHAIR—If you want to raise that question you can ask the minister himself in question time.

Senator SCHACHT—He occasionally turns up. It would be good if he would.

CHAIR—You can ask him in question time, and I think any questions—

Senator SCHACHT—Mr Stevens, will you take up with the minister if you can divulge to us whether you prepared a cabinet submission prior to the Prime Minister's announcement on completion of full privatisation of Telstra?

Mr Stevens—I will refer your question to the minister and see how he wishes to respond to it.

CHAIR—Thank you.

Senator SCHACHT—I just want to clarify—

CHAIR—Senator Schacht, we are now running over time.

Senator SCHACHT—Look, yesterday we went over time but we made up time and we finished on time because we showed commonsense in juggling the arrangements for the procedures—

CHAIR—I expect to do the same.

Senator SCHACHT—We will do that again today and meet that deadline.

CHAIR—Good.

Senator SCHACHT—Mr Stevens, you said that you were confident that there would be competition in the local loop, new technologies. Which companies indicated to you that they will use wireless technology to provide competition in the local loop?

Mr Stevens—We are getting into commercial-in-confidence information now, Senator. I am sorry, but companies talk to us about a range of their commercial plans and they expect us to keep that confidential.

Senator SCHACHT—So you do have companies that actually indicated to you that they will make that investment for local loop competition using wireless technology?

Mr Stevens—There are a number of companies that I have spoken to that mentioned that possibility, but to go further is to divulge commercial-in-confidence information.

Senator SCHACHT—Okay. You mentioned the allocation of spectrum for wireless loop. With the present auction under way, could any of the bidders for spectrum in that area use that for local loop telephone connection?

Mr Stevens—Again, all I can say is that it is potentially useful for that because spectrum licensing provides for the successful bidder to use that spectrum as they see fit. There is the technology available to use that spectrum for local loop.

Senator SCHACHT—That presently is in the auction process at the moment?

Mr Stevens—Yes.

Senator SCHACHT—I noticed in the paper—it might even be today—that Telstra is one of the major bidders for that part of the spectrum. If Telstra purchases a large whack of that spectrum and uses its financial power, how can the smaller companies get into wireless loop competition which they have bid for in open competition?

Mr Stevens—The first point is I am not saying that any of the entrants will use it for local loop, I am simply saying it is technically possible. Secondly, there is part of the 800 spectrum reserved for new entrants specifically, which Telstra, Optus and Vodafone are not able to bid for, and there are also limits.

Senator SCHACHT—That was the bidding for mobile phones. They were restricted in the bid if that was to be used for mobile phones. Is that correct?

Mr Stevens—No, they were restricted in bidding for that spectrum—

Senator SCHACHT—Spectrum, no matter what?

Mr Stevens—regardless of what it is used for.

Senator SCHACHT—How much of that spectrum presently being bid could be used for wireless local loop telephone connection?

Mr Stevens—Potentially, all of it, although I would be very surprised if it was.

Senator SCHACHT—Could you take this question on notice as I would not expect you to have the answer available at the table. Of all of that spectrum that is now available for auction, that is now in the process of being bid for, how many local loop telephone connections could that make if it was used with known technology? It is not much use buying it if it provides 10,000 telephone connections in Australia.

Mr Stevens—I understand the point. We will take it on notice, I do not have the information here.

Senator SCHACHT—You mentioned that yesterday Mr Anderson of Optus said that they are making significant new connections, or will be making them, to their cable roll-out. Did he in his speech—I was not there to hear—give an indication of how many that will lead to?

Mr Stevens—In his speech, I do not believe so, but I am going on memory now.

Senator SCHACHT—So he just asserted they will be increasing the connections?

Mr Stevens—He just mentioned it was part of their overall plan to be competitive in the local call arena.

Senator SCHACHT—Telstra has at least 6½ million to seven million local loop telephone connections. Does the department have a view of how many connections would have to be made by Optus's cable broadband roll-out before it would provide effective competition?

Mr Stevens—Effective competition could be provided in a number of ways. Potentially, the local call could be provided for the Optus cable. I think they pass something like 2.1 million households at the moment. That obviously sets an upper limit on the number of households that could be connected. But there is also activity with regard to the declaration of local call resale and local call services, which the ACCC is doing. That will provide further competition in this area.

Senator SCHACHT—That is a regulatory matter, we are talking about infrastructure competition, which Professor Fels and others are very strong advocates of.

Mr Stevens—There are two issues here. Pure local call resale is just that, but with regard to some of the aspects of local call services, there would be the ability for some of the service providers to use their own infrastructure in conjunction with the Telstra copper pair to the home. It is not an either/or situation.

Senator SCHACHT—If you find any further information from Mr Anderson about what his targets are on connection, that would be most useful to us.

The government in the legislation last year put in an arrangement whereby to ensure that the country areas of Australia got access to competition on local loop telephone calls there would be an averaging provision of what the call charges were in the metropolitan areas of Australia. What that averaged out at would have to be what Telstra and others would provide. As it is only Telstra in the bush so far, they would have to provide the same. We are now five months into this year. When I asked this in February all I was told was that the calculation is still under way. Has the calculation been completed? If so, what is it?

Mr Stevens—I am not aware of the current situation on that, it is a matter for the ACCC and Telstra, but we will take that on notice and give you an answer.

Senator SCHACHT—Could you also take this on notice. If there is a reduction—it may only be one or two cents—how will consumers who have already paid for their phone calls in the first five months of this year have the competition benefits passed on? Do they get a rebate? Do they have a bigger reduction for the remainder of the year? How was that administered?

Mr Stevens—We will take that on board.

Senator SCHACHT—Do you think that is purely the responsibility of the ACCC?

Mr Stevens—The legislation sets out the policy and the requirement. The ACCC must implement that particular part of the legislation, but obviously we are interested in the outcomes.

Senator SCHACHT—For consumers—although this is an ACCC issue and you have given us chapter and verse about the wonders of the ACCC and competitive regulation—if it takes at least five months to work out what the new rates should be, the consumers are really not going to get the full benefit because they do not really know what their charges will be for the full year, they are going to get at best a retrospective rebate.

Mr Stevens—Again, we will take that question on notice. I would make the point that the first time around is going to take a little bit longer than the second time around.

Senator SCHACHT—We hope it is only a first time around delay on this but we will take it up with the ACCC when they turn up.

CHAIR—Thank you, Mr Stevens. I would also like to thank officers from the department for their submission and for their attendance today.

Senator SCHACHT—Mr Stevens, I have just one other question. Does the legislation allow, if Telstra was fully privatised, that it will be turning up to full estimates hearings?

Mr Stevens—Once it is fully privatised, no, it would not be coming to estimates hearings.

Senator SCHACHT—So there will be no estimates hearings for a fully privatised Telstra.

Mr Stevens—No, because it is not owned by the government.

CHAIR—But the ACA and those organisations will still come before estimates.

Mr Stevens—Absolutely, all government agencies do.

Senator SCHACHT—Telstra, despite being an 85 per cent natural monopoly, will not attend any public inquiry?

CHAIR—Just as Qantas and the Commonwealth Bank do not attend estimates.

Senator SCHACHT—The Commonwealth Bank is not a natural monopoly.

Mr Stevens—The parliament can always call any organisation it wishes to to give evidence on a range of issues, but there would not be the formal mechanism of four or five times a year.

Senator CARR—That would be a selling point for privatisation. Company secretaries would not have to appear before Senate estimates. That is what we hear. Is that not true?

Mr Stevens—There is a much more serious reason for privatisation than that.

CHAIR—Yesterday when they were asked how their personal productivity would increase through privatisation, I would have thought they would have wanted to say they would not have to come to estimate hearings. Thank you very much.

[10.57 a.m.]

BARTOS, Mr Stephen Anthony, General Manager, Department of Finance and Administration, 111 Alinga Street, Civic, Australian Capital Territory 2601

GOODWIN, Mr Paul William, Branch Manager Budget Policy, Coordination, Department of Finance and Administration, Newlands Street, Parkes, Australian Capital Territory 2600

PRIOR, Mr Phillip James, Assistant Secretary, Department of Finance and Administration, Newlands Street, Parkes, Australian Capital Territory 2600

WILSON, Ms Sandra, Branch Manager, Commonwealth Superannuation Group, Department of Finance and Administration, Newlands Street, Parkes, Australian Capital Territory 2600

CHAIR—The committee has before it submission No. 67 which it has authorised to be published. Are there any alterations or additions you would care to make at this stage to the submission?

Mr Bartos—There are none, Senator.

CHAIR—Do you wish to make a brief opening statement?

Mr Bartos—I might just very briefly speak to our submission. It is a brief submission because it is in essence complementary to that provided by the other organisation in the Finance and Administration portfolio of Office of Asset Sales and IT Outsourcing from whom you will be hearing this afternoon.

Our submission covers a few issues that the more comprehensive submission that you have received from OASITO may not have. In particular, we have covered some of the issues to do with the overall benefits to the economy, where we have identified benefits not only in

terms of a positive net effect on national savings but also a likely overall economic benefit in relation to increased performance by Telstra in private ownership due to the impetus provided by scrutiny by shareholders and the market. We have indicated that there will be a strong accountability regime retained for Telstra following passage of transition to full private ownership.

Finally, we have indicated that there is a relationship between the Commonwealth and Telstra in relation to superannuation. We have provided a brief description of that relationship. The transition to full private ownership will have an effect on those relationships in regard to superannuation. Our experience with other privatisations has been that superannuation is not expected to be in any way an impediment to privatisation. The evidence of previous GBE floats has been in general positive on managing those superannuation relationships. Therefore, we would see that as being in no way a barrier. With those brief opening remarks, I will open the submission to any questions.

Senator COLSTON—Does Telstra at present pay income tax at the company rate?

Mr Prior—Yes, they do.

Senator COLSTON—The only other question I have is one that you might take on notice. I would like to know what the net effect to Commonwealth revenue would be from the total sale of Telstra with the sale of the remaining part of it. I should imagine that includes company tax. It would include not having to pay interest on public debt. It may include a number of other things. In other words, apart from the sale price, what would be the impact on government revenue?

Mr Bartos—There will be information in the budget on the expected impact and that may go some way towards answering those questions. You are quite right to identify that it is a complex issue. There is not only the impact of the sale proceeds and the stream of dividends, but also the taxation issues to do not just with Telstra but also with the stream of taxation income that might be expect in relation to shareholders of Telstra. It becomes a complicated calculation. We are happy to take that question on notice.

Senator COLSTON—There would be a number of assumptions that you would have to make as well.

Senator SCHACHT—Mr Bartos, I asked DoCa this before and they said it should be asked to you. You might say it should be asked to Treasury or someone else, but I will give it a go. I am following up Senator Colston's remarks with a question about the estimation of the savings on debt payments by using the sale of Telstra to pay off public debt.

It has been suggested in some submissions, and even publicly, and by Professor Quiggin, who will be here shortly, that with the anticipated growth in the telecommunications market—even with a declining percentage held by Telstra, but still a substantial majority of the telecommunications market into the next decade—Telstra will be available to pay dividends of over \$2 billion a year to the government after paying tax, et cetera. At the present bond rate for public debt of 6½ per cent, we would be getting more from dividend than we would be saving on interest payments by paying off the debt, therefore it is a net loss.

I would like to get a comment from Finance about those possibilities. I think that the budget papers will only deal with this issue for the next year or so. We are talking about projections into at least the next decade. You can only sell Telstra once. You cannot keep selling it. It is not a magic pudding. If you get it wrong once, you are stuck with it. You might want to

take that on notice and provide an answer to us by the end of the week. I would like to get some response if it is possible.

Senator CARR—Are you taking that on notice?

Mr Bartos—I am happy to address the question right now. Hopefully, it will be of assistance to the committee. One thing that needs to be said about this is that, in theory, were we to assume a perfect market with full information, the proceeds that the government receives from the sale will be equal to the stream of dividends plus retained earnings in Telstra. Therefore, the net effect will be exactly neutral.

In practice, we do not have that sort of perfect market. One of the issues that has to be borne in mind is whether Telstra makes the best use of retained earnings under public ownership or whether the disciplines that privatisation would place on it would mean better use of those retained earnings, in which case one could expect net benefits to the economy as a result. That is an issue that depends on your assumption about how Telstra would be managed and whether there would be a discipline brought on it by privatisation. Certainly in theory the net effect should be a neutral one and I think this is suggested in the submission you have received from Professor Quiggin.

Senator SCHACHT—Looking at Professor Quiggin's submission, there have been other comments. Telstra has already put it on the record, both at estimates and our hearing yesterday, that at the moment out of retained earnings they are spending up to nearly \$4 billion on capital works. Within a year, that will be substantially reduced as they complete the digitisation program and so on. Capital works may drop below \$3 billion. AEEMA, the Australian Electronic Engineers Manufacturers Association, is very concerned about this because it means less business for their manufacturing members. There is plenty of evidence it is going to drop.

That means, on present indications, that Telstra will have an extra billion dollars-plus to pay as dividend, profit, retained earnings, or to pay off its own debt, et cetera. On those figures there is an indication that Telstra is going to be more profitable and have that available to pay its dividend. Can you look at that in your calculations?

Mr Bartos—Because they are public figures—you quoted them—they are obviously going to be also known to the market and they will be built into the price of Telstra shares. The market will factor those into the price that they are prepared to pay for Telstra shares.

Senator SCHACHT—I see. Are you saying that the price of the shares will go up and, therefore, the government will get more money? You did not do too well the first time round on that. Professor Quiggin came to this hearing two years ago and said, 'Telstra's full value is really around \$50 billion to \$60 billion.' Everybody laughed at him, including the minister, saying, 'This is an exaggeration; he's got it wrong.' On the basis of one-third capitalisation, he is dead right. Telstra is now worth \$60 billion. I have to say that, in predicting the full value of Telstra, Professor Quiggin has a record here that is better than Finance, the people who prepared the prospectus, the minister and Telstra itself. When he puts these figures forward about the real value of income streams, he has some credibility now, hasn't he?

Mr Bartos—I was not here for his previous testimony. I cannot really comment on it.

Senator SCHACHT—It is on the record. Surely you have read it.

Senator CARR—You must have assessed it when you came to your conclusions.

Senator SCHACHT—Surely the Department of Finance has read it and looked at his evidence last time. On the value of Telstra, he was correct, was he not, that it was actually

undersold by the government? Was he not correct in predicting that the real value of Telstra one-third privatised was something close to \$60 billion rather than the \$30 billion we were quoted by the government and by Finance and Treasury and Telstra two years ago?

Mr Bartos—I have to confess to having not read his previous evidence so I will take that on notice.

Senator SCHACHT—Has the department read it? Has the department taken any notice of his previous prediction, which has now been proven correct?

Mr Bartos—As I said, we will take that one on notice. I am not sure.

Senator SCHACHT—Do you accept the fact that, if you had taken notice of his prediction, you would have floated the one-third at a much higher price than you did in the float last year and, therefore, the taxpayers would have got a higher value and return on the one-third privatisation? Is that correct?

Mr Bartos—On that one, Senator, issues to do with the sale price and float processes are more appropriately directed to the Office of Asset Sales who manage that process.

Senator SCHACHT—The inference is that Mr Hutchinson is going to have to take the fall for this, is he? Is he going to be the fall guy for having the public of Australia, the taxpayers, losing \$10 billion to \$20 billion worth of revenue? The finance department washes its hands of that?

Mr Bartos—I will not engage in the debate on the emotional content of that statement.

Senator SCHACHT—Emotional? The \$20 billion difference in the float price lost to the taxpayers of Australia is not an emotional figure—it is actual.

Mr Bartos—In terms of the responsibilities within the Commonwealth Public Service, the Office of Asset Sales is responsible for floats.

Senator SCHACHT—Is Mr Hutchinson responsible to the minister for finance?

Mr Bartos—He is.

Senator SCHACHT—And you are responsible to the minister for finance?

Mr Bartos—That is also true.

Senator SCHACHT—So Mr Hutchinson has nothing to do with the finance department?

Mr Bartos—He is part of the Finance and Administration portfolio.

Senator SCHACHT—But you do not have any contact with him because he is a separate unit of Mr Fahey's portfolio.

Mr Bartos—We have contact with him, in the same way as we have contact with the Department of Communications and the Arts and other departments that are concerned with this issue. But we do not answer questions that are in their field of responsibility.

Senator SCHACHT—I will put it more simply to you. In preparation for the full privatisation of Telstra, has the Department of Finance and Administration reviewed the price set for the one-third privatisation and made comments to Mr Hutchinson like, 'Listen, last time the taxpayer got diddled for the sale by something like \$20 billion on the value because we undersold the asset. Therefore, this time around, how do we set the figure so that the government gets the full value in a privatisation process?'

Mr Bartos—That is being handled by the Office of Asset Sales and IT Outsourcing.

Senator SCHACHT—Is there a policy section of the department of finance, a branch somewhere over in foggy bottom or whatever you call it, that provides advice on a range of issues to the minister and to the head of the department? Do you have a policy research division, branch or unit in finance?

Mr Bartos—We do not have anything of that nature.

Senator SCHACHT—Do you have a telecommunications division, branch or unit of finance?

Mr Bartos—We have an area of the Department of Finance and Administration that deals with communications and the arts portfolio policy issues. We also have the Commonwealth shareholder advisory unit which advises on issues to do with shareholder value in relation to government business enterprises.

Senator SCHACHT—Do either of those two divisions, units, branches or whatever you call them provide advice to the head of the department and then to the minister about setting the price for the full further privatisation, in view of the fact that you set the price too low and the taxpayers of Australia did not get the full value of Telstra in the one-third privatisation?

Mr Bartos—There has been advice provided to the Minister for Finance and Administration in relation to this issue from the Finance and Administration portfolio. Policy advice is provided by the department to its minister.

Senator SCHACHT—Does the policy advice include consideration of setting the price and the fact that you demonstrably set the price too low for the one-third sale and the taxpayers did not get full value from the privatisation process?

Mr Bartos—I do not think it is appropriate to go into more detail in relation to the provision of policy advice to the minister.

Senator SCHACHT—It is too embarrassing to go into it, isn't it? It is too embarrassing to admit that the taxpayers of Australia took a terrible bath on the one-third privatisation. That is why you are not willing to comment about it, isn't it?

Mr Bartos—I was taking that as a rhetorical question.

Senator SCHACHT—But I want you to answer it.

CHAIR—How can you have a rhetorical question that you want answered?

Senator SCHACHT—Are you too embarrassed to give us information because the department got it wrong in its advice first time round?

Mr Bartos—No, Senator.

CHAIR—Professor Quiggin is due to come on-line at 11 o'clock. He is now waiting for us on a telephone hook-up. He is now going to be sitting by his telephone and I think—

Senator CARR—He is listening to this.

CHAIR—He is not listening to it. He is not hooked up.

Senator SCHACHT—Professor Quiggin, I am sure, is happy to listen to some of this.

CHAIR—He is not actually hooked up to listen. He will be hooked up when he is ready.

Senator SCHACHT—It is a disappointment for him, I suspect.

CHAIR—Mr Quiggin is there waiting to be hooked up and I would suggest that we have about five more minutes. If you cannot contain yourself any longer, we will have come back

to the department. I think that it is inappropriate to have people from outside waiting to respond when we have invited them to give evidence.

Senator CARR—Mr Bartos, can you please comment on the statement made by Professor Quiggin on page 34 of your submission, table 4? In the last paragraph he says:

With the net sale proceeds of \$40 million, the profits foregone as a result of privatisation exceed the interest savings from 1999-2000 onwards. By 2007 the present value of net loss is approximately \$9 billion.

I understood that you said before that it was neutral.

Mr Bartos—I can comment on that, Senator. It depends on assumptions made as to the likely future profits of Telstra. All I can indicate is that Professor Quiggin has made some assumptions there that may or may not be correct.

Senator SCHACHT—His assumptions were right on the value of Telstra at the one-third privatisation, so why isn't he right here? If you had listened to him two years ago, you would have made billions more for the Australian taxpayer. Why isn't he correct here?

Mr Bartos—You have actually asked a number of questions and we will try and deal with those within the time. Firstly, you have said that Professor Quiggin was correct in his assumption about the sale value of Telstra.

Senator SCHACHT—He said that the full value of Telstra would be around \$50 to \$60 billion. He said that two years ago. If you had taken note of him and then set the price for the one-third sale share price, you would have got billions more for the sale of that one-third asset. You did not take any notice of him. The minister at the time said that he was talking through his head and had smoke coming out of his ears, or something. Quiggin was proved correct. Therefore we are saying that we would like you to take it on notice and come back to us by the end of the week to say where his assumptions are wrong in this submission.

Mr Bartos—So we will take on notice to review his assumptions?

Senator SCHACHT—Okay. The next thing I want to put to you is that if he is wrong about the assumptions of profit growth, does that mean that you are, in fact, starting to over-value Telstra, that you may mislead the market, and that with competition the value is going to rapidly come down? You cannot have it both ways. You cannot say that he is wrong in over-estimating the profit growth and then, on the other hand, say that you want to get a good price for Telstra's full privatisation at \$40 billion. You cannot say that the projections on growth based on the present figures are wrong and, therefore, \$40 billion may be wrong and you are going to have to reduce the amount of the value of Telstra. You are between a rock and a hard place at the moment, Mr Bartos, I suspect.

Mr Bartos—Senator, we are not about to speculate on the likely value of Telstra. Professor Quiggin has, but we have not.

Senator SCHACHT—You will take on notice for us the assumptions he has made and comment about whether you think his assumptions are correct, or not. We will give you the chance to prove him wrong.

Mr Bartos—We are happy to comment on his assumptions, yes.

Senator CARR—And will you do that in regard to table 8 which details the ranges of values that are required? I would ask you give us an evaluation of Professor Quiggin's work in terms of the presentations that he has made to this committee under table 8. Specifically, he claims that the central projection is taken as the best guesstimate and that the sale price of more than \$60 billion would be required to generate a sustained net improvement in the

Commonwealth's fiscal position without even taking into account the loss of tax revenue. Could you give us an assessment of that claim?

CHAIR—We have contacted Professor Quiggin and he has to leave for a lecture at five minutes to, but he can wait a little longer. Senator Tierney has some questions.

Senator SCHACHT—I still have some further questions.

CHAIR—Senator Tierney has some questions. I am going to let Senator Tierney ask questions now.

Senator SCHACHT—Okay. We will come back to mine then.

Senator TIERNEY—Are you aware of the basis on which Professor Quiggin calculated his original value of Telstra? Have you looked through that?

Mr Bartos—No, Senator.

Senator SCHACHT—You should have.

Senator TIERNEY—No, that is not the point at all Senator Schacht. He actually got it wrong and it was widely discredited at the time, his whole basis of calculation. The fact that the market has responded in such a way since has not had very much to do with Professor Quiggin's calculations.

Senator SCHACHT—I hope he never lectures on economics at Newcastle University.

Senator TIERNEY—You recall, Senator Schacht, that when we went through that evidence—

Senator SCHACHT—Quiggin got it right.

Senator TIERNEY—He did not get it right. His basis for calculation was totally discredited at that time and just because the share prices responded in such a way has absolutely nothing to do with Professor Quiggin.

Senator SCHACHT—It is because they saw the value in the shares. He fluked it.

Senator TIERNEY—He fluked it based on the other assumptions.

CHAIR—Senator Schacht and Senator Tierney! Senator Schacht, Senator Tierney did not interject when you were speaking. Will you refrain from interjecting?

Senator TIERNEY—We are at a disadvantage if the witnesses have not looked at that earlier evidence which, in the hearings under several hours of questioning, Senator Schacht, Professor Quiggin's evidence was discredited at that time because of his erroneous basis of calculation. The share price has now responded at a higher level but it has nothing to do with the way he calculated it. I would like the witnesses to take on notice this question of the way Professor Quiggin calculated that material. Could we have your response to that? If we can get that response, I think that we can clear this up at that time?

Mr Bartos—Yes.

Senator TIERNEY—I would like to ask you about the transition to private ownership by Telstra. What do you think full private ownership will do to the financial performance of Telstra?

Mr Prior—As we put in our submission, we are of the belief that the transition leading up to the full privatisation of Telstra will bring about some commercial and market pressures on Telstra which will lead to improved performance of Telstra.

Senator SCHACHT—What empirical evidence do you have to put before us that that will actually occur? In your submission you just asserted that.

Senator TIERNEY—Perhaps, in responding to that, you might talk about other companies that are under full market scrutiny and how they respond.

Mr Prior—Senators, we indeed can refer to empirical evidence.

Senator SCHACHT—Why isn't it in the submission?

Senator TIERNEY—I thought that I had the floor, Senator.

CHAIR—You do, Senator Tierney.

Senator TIERNEY—Regarding the Commonwealth's position, could you tell us about the ongoing cash benefits from Telstra's transition to full private ownership?

Mr Bartos—In broad terms the cash flow benefits to the Commonwealth will be positive in the sense that the savings from reductions in public debt interest will exceed the flow of dividends. The variable in there is earnings retained by Telstra which, of course, are not seen as cash by the Commonwealth. So in terms of the immediate cash flow effects, they will have a positive effect on the budget. That is all I can say in broad terms. Obviously the actual estimates of that will be revealed in the budget papers.

Senator TIERNEY—As Telstra's full privatisation will result in even greater share ownership in Australia, what benefit is there in that situation for the nation to have higher levels of share ownership?

Mr Bartos—In broad terms the economy benefits through wider share ownership and better informed markets. The overall economic benefit from—

Senator SCHACHT—Do you mean that Telstra—

CHAIR—Senator Schacht!

Senator TIERNEY—He is interrupting the witness yet again.

CHAIR—Senator Schacht, just refrain. Let Mr Bartos continue.

Mr Bartos—Overall—and this is taking a long view of history—growth in private share ownership and economic performance have gone hand in hand.

Senator TIERNEY—On pages 3 and 4 you describe the customer and consumer safeguards and their continuation under full private ownership. What would the financial market's reaction be to that, do you think?

Mr Prior—I am not quite sure what the question means. Do you mean how they would respond to continuation of these sorts of protection measures?

Senator TIERNEY—We have put those protection measures in place and they will continue. What will the effect of that be—the fact that those safeguards are there—on the capital market?

Mr Prior—Those safeguards we refer to are very much akin to the safeguards that apply at a corporate and a capital market point of view to the companies that are operating in the capital markets ordinarily. We anticipate that the capital market would see this as a positive regime. It is consistent with other businesses and corporations in that market.

CHAIR—Senator Margetts, do you have any questions?

Senator MARGETTS—Yes. You claim that there will be positive net benefit on the market by Telstra being subject to the competitive disciplines and competitive pressures of the market. How accurate is that statement considering that Telstra is an effective monopoly?

Mr Bartos—The issue goes to questions to do with the accountability of the boards and management of companies to their shareholders. At the moment, with a private company, shareholders exercise considerable discipline in a way that is often more difficult for public shareholders to exercise. Shares are traded. The value of decisions taken by management gets reflected in share prices. There are immediate signals and feedback. So those things give an indication as to the performance of the company in a very direct and immediate way. Those things, therefore, have an impact on how well the company is managed.

Senator MARGETTS—Also, it was mentioned that in a perfect market the impact should be neutral. Later on a statement was made that there will be a net benefit on the budget even though you will not have that as an asset any more. How would that be?

Mr Bartos—In cash terms there will be a net benefit to the budget. In accruals terms, assuming that there was a perfect market, the effect would be neutral. As I indicated before, it is very difficult to assume that there is a perfect market. Full knowledge of the future performance of Telstra and what you believe is going to happen in the future depend very much on whatever assumptions you make about likely future performance and current performance and how those interrelate. There is a difference between simply the cash impact on the budget and the overall accrual impact on the budget.

Senator MARGETTS—In terms of accrual, if the sale price was very much undervalued, the actual impact on the budget will be negative, will it not?

Mr Bartos—If you were to make that assumption, that is an arguable proposition. On the other hand, it also depends on what assumptions you make about those other factors that we have also mentioned about which assumptions have to be made.

There is no exact science in this. It is not possible, as we have indicated in our submission, to provide an absolutely accurate assessment of the net effect on national savings, because calculating that precise effect will depend both on the assumptions you make and on what responses people make to that share offer. Answering that with any precision is very difficult. What one can say is that it is likely that there will be a positive net effect.

CHAIR—You can have one more question, Senator Schacht, then the rest will have to be put on notice, because we are going on to Professor Quiggin.

Senator SCHACHT—In your accountability section, you mention all the corporation arrangements, et cetera. Do you believe that because Telstra, for the foreseeable future, will be providing well over 80 per cent of the telecommunications services to the Australian public—and in many areas like regional and rural Australia it is the natural monopoly—that they should still appear before the estimates committee? If full privatisation occurs should they still appear because they are a monopoly provider in many areas of Australia?

Mr Bartos—I believe that was answered by Mr Stevens and my answer is the same.

Senator SCHACHT—That Finance believes they should not turn up here and answer questions at estimates?

Mr Bartos—However, the parliament has the power to call any organisation to give evidence.

Senator SCHACHT—No, not at an estimates hearing. We can have a reference, an inquiry, a select committee, but to regularly on four occasions each year come before the estimates committee and answer questions—

Mr Bartos—It is difficult to see why, if there is no budget funding, it would become an estimates issue.

Senator SCHACHT—Let me give you an example. Because of their monopoly position they will maintain that position for the foreseeable future in many areas of Australia. If it was not for this Senate estimates committee, the problem of the CoT cases—the casualties of Telstra—would not have got an airing and been developed in a way in which may give justice to some people who have been appallingly treated by a then national publicly owned monopoly. They still will be a privately owned monopoly in many areas. How do they get it redressed? All of the other procedures you outline here did not work until this committee forced an independent process to investigate those allegations. What are you suggesting we do?

Mr Bartos—Don't get me wrong, Senator. I am not suggesting that there are issues that parliamentary committees should ignore in relation to not only Telstra but other major players in the economy.

Senator SCHACHT—But this is a monopoly that we are talking about.

Mr Bartos—I think why those should be addressed in an estimates committee is a very different question. The purpose of the estimates committees is to examine the estimates. Following full privatisation, there will be no budget funding related to Telstra and, therefore, it is not really a legitimate estimates matter. It may well be a perfectly legitimate matter for the parliament or committees.

CHAIR—There is Commonwealth funding to the TIO and those questions about CoT cases could be asked through that. There is funding to other regulatory bodies that could be asked questions where legitimately those areas could come up.

Senator SCHACHT—The other question in the legislation is the removal of the power of the minister to direct the full privatisation. A number of private companies that are competitors to Telstra came before this committee last week. They said that, because Telstra will be effectively a natural monopoly for the foreseeable future in many areas, even with full privatisation they still want the power of the minister to direct to be maintained. They see it as the last resort to maintain effective competition so that they will not be gazumped by the monopoly power of Telstra. You have talked about competition here. If the competitors want that, they do not believe your structure on competition will be delivered without having the minister's power to direct. Is that a relevant issue that should be maintained?

Mr Prior—As and when Telstra is no longer owned by the Commonwealth, the power to direct as a shareholder is clearly inappropriate. However, in a regulatory sense, as our colleagues from the Department of Communications and the Arts may have put to you, there will be regulatory capacities still in place.

Senator SCHACHT—But all the competitors turned up last week. Irrespective of all that other regulation, they said, 'Telstra has the monopoly power, and so part of the market, even fully privatised. We know that in the end we may have to rely on the power of the minister to direct the board to get decent competition to overcome some of the attitudes of Telstra against competition.' You are quoting competition—all the wonders of the new market. These people say they do not believe it. What is your response to that?

Mr Prior—We cannot talk for competitors of Telstra in terms of what they may want for their benefit.

Senator SCHACHT—This is most frustrating, Mr Prior, because you quote in your brief submission the wonders of competition. The people who you are supposed to be favouring, who are part of the competitive market, actually said, ‘We want that power of direction still to be there because you do not let—as they quote the minister—the 600-pound gorilla loose while it is a near monopoly in so many of the market areas of telecommunications. You seem to have completely missed that in your submission.

Mr Bartos—Senator, it could be argued that you would expect competitors to suggest that what is important is that there be a regime in place that ensures competition in the telecommunications market. That is what the provisions that we have referred in our submission are aiming to do. Retaining a power of direction by a minister, when that minister is no longer representing the owner of the company, did seem inappropriate.

Senator SCHACHT—And 80 per cent of Australians have to use Telstra to make a telephone call. You seem to have completely ignored that in the understanding of a natural monopoly, which I find extraordinary for a finance department that is supposed to have some perspicacity on these issues.

Mr Bartos—I think that question is confusing the two issues.

Senator SCHACHT—No, it is not confusing the two issues.

Mr Bartos—One is that there should be a regulatory regime with a player that has dominant market power as Telstra. That is something that clearly we not only share your view on, but certainly would advocate. A competitive regime is desirable. Is a competitive regime achieved by giving a minister a power of direction, especially when that power of direction is in conflict with the way shareholders responsibilities work? I think the answer would be no.

Senator SCHACHT—I think the answer to that is leave it in majority public ownership. My last question is on universal service obligation. Do you believe that the value of Telstra to be fully privatised would be significantly reduced if the universal service obligation was expanded to take in definitions: kilobite capacity, guaranteed delivery to all Australian consumers, other services to broadband and other services to regional and rural Australia?

Mr Prior—As a general proposition, any additional impost on a company that caused the company to incur additional costs will, by definition, reduce value.

Senator SCHACHT—We have had many submissions saying that the universal service obligation—which is only at the moment to guarantee standard telephone connection—should be expanded. It will obviously cost a lot more money and will have to be paid for by cross-subsidy under the USO obligations on Telstra. Do you have any concern if we recommend that the USO be greatly expanded to guarantee regional Australia gets the same equivalent service as metropolitan Australia?

Mr Bartos—The issues there are really to do with telecommunications policy that Communications and the Arts dealt with. In terms of the impact on shareholder value, I think Mr Prior has answered the question.

Senator SCHACHT—So you have made no policy comment or recommendations to your minister who is in charge of the process of selling Telstra about the impact of an expanded USO on the value of Telstra?

CHAIR—You are not required to answer that question, Mr Bartos.

Mr Bartos—As before, we are not going to canvass issues to do with our policy advice to the minister.

CHAIR—I would like to thank officers from the Department of Finance and Administration for your attendance.

[11.39 a.m.]

QUIGGIN, Professor John, Professor of Economics, James Cook University, Townsville, Queensland 4811

TOLAR, Mr Martin, Associate Lecturer, University of Western Sydney, MacArthur Campus, PO Box 555, Campbelltown, New South Wales 2560

CHAIR—Welcome, the teleconference will start. Gentlemen, in what capacity do you appear before the committee?

Prof. Quiggin—I appear as a private citizen.

Mr Tolar—I appear also in a private capacity.

CHAIR—Thank you. The committee has before it submission No. 86 from Professor Quiggin which it has authorised for publication. Are there any alterations or additions that you would care to make at this stage? Professor Quiggin, we also acknowledge that you have faxed a two-page tabled statement which the committee has received.

Prof. Quiggin—Yes, I have supplied those two things and there is no additional material I wish to table at this time.

Mr Tolar—I have nothing else that I would like to add either.

CHAIR—Could I make it clear that I will call senators this time because it is going to be a shemozzle otherwise. People on the other end of the line must know who is asking the questions.

Senator CARR—Professor Quiggin, your supplementary submission to the committee responds to the statements made by the Department of Finance and the Office of Asset Sales. Would you care to outline your main concern with the submissions from the Department of Finance and the Office of Asset Sales?

Prof. Quiggin—Firstly, with respect to the issue of government savings addressed by the Department of Finance, I have made the point that a number of assessments of privatisation, for example, assessments which suggest that it would give the government cash which it could spend in the year of receipt of sale proceeds, or that it could spend the difference between interest savings on debt repaid and dividends, implementing either of those proposals would reduce government savings. The first one is well recognised and with the second, if the government privatises Telstra to maintain national savings, it is necessary to include budget savings to offset the loss of Telstra's retained earnings.

CHAIR—Professor Quiggin, are you on a speaker phone?

Prof. Quiggin—No, I am speaking on an ordinary phone. Are you having trouble hearing me?

CHAIR—Yes. Could you try to keep your mouth a little way from the mouthpiece. We are getting a little bit of reverberation.

Prof. Quiggin—I will try that.

CHAIR—That is better.

Prof. Quiggin—In terms of the Office of Asset Sales, I will make two points. Firstly, their picture of the benefits to consumers of privatisation in Britain is one sided and, in some cases, quite clearly misleading. For example, it quotes improvements in the proportion of pay phones that have been working since 1987. That was several years after privatisation and special intervention was required to reverse a severe decline which took place immediately after privatisation. That was a product of regulation and not privatisation.

I also want to make the point that I welcome the fact that both the Department of Finance and the Office of Asset Sales have dropped the claim that we can assess privatisation by comparing dividends alone to interest savings. That argument was put in support of partial privatisation. I have made the point on numerous occasions that it is an elementary error in finance theory and I am pleased to see that it has not been repeated by either the Department of Finance or the Office of Asset Sales. I would then make the point that the Office of Asset Sales is left without any criterion for assessing whether privatisation is beneficial to taxpayers or not.

Senator CARR—On page 34 of your substantive submission you assert:

With net sale proceeds of \$40 billion, the profits foregone as a result of privatisation exceed the interest savings from 1999-2000 onwards. By 2007, the present value of the net loss is approximately \$9 billion.

Firstly, could you explain how you come to that conclusion and, secondly, what consequence would there be if you were to take the figure of 2007 out to 2017?

Prof. Quiggin—On the first question, what I have done is develop projections which are listed in tables 1-3, the medium, high and low projections of Telstra's likely revenue and expenses, and from that you can derive the other financial variables. Then I have computed their loss or gain in public sector income by comparing interest savings from privatisation, which is a sum fixed in nominal terms, and the earnings forgone, whether those earnings are paid out of dividends or retained within Telstra, but of course accessible at any time to the government through a share buy back, special dividend, or any other way in which it wishes to realise those retained earnings.

That is the basis of the calculation and how I got that figure of \$9 billion. I have not carried it past the year 2007 because if you were to predict further out into the future the predictions become more unreliable. The point here is that the number would certainly grow unless Telstra's earnings perform very badly in the period after 2007, because we are comparing that flow of earnings to a fixed nominal amount.

Senator CARR—I want to emphasise that in your view, beyond 2007, on the assumptions you have presented to us, that that figure of \$9 billion is likely to grow?

Prof. Quiggin—That is correct.

Senator CARR—That is a loss in excess of \$9 billion over a longer period?

Prof. Quiggin—That is correct.

Senator CARR—Thank you. You say on page 40:

If the central projection is taken as a 'best guess' estimate, a sale price of more than \$60 billion would be required to generate a sustained net improvement in the Commonwealth's fiscal position . . .

Can you explain how you reached that conclusion?

Prof. Quiggin—It is the same arithmetic. You can evaluate the present value of those earnings and then compare it to the kind of flow of interest savings that would be required.

With a sale price of \$60 billion that interest saving goes up from \$2.4 billion to \$3.6 billion, and that is the kind of amount you need to offset my best estimate of the likely flow of earnings into the future.

CHAIR—I have a question for Mr Tolar. Mr Tolar, you are due to leave to lecture at 11.55 a.m. Is that right?

Mr Tolar—I have made an arrangement with somebody to start the class for me. I can stay a bit after 12 o'clock.

CHAIR—Thank you. I have a question for you. Were you in favour of the partial sale of Telstra?

Mr Tolar—I wrote an article that appeared in the *Financial Review* during 1996 that did raise my concerns over the partial sale of Telstra.

CHAIR—I am sorry, Mr Tolar, can you speak up or move closer to the phone.

Mr Tolar—I will try.

CHAIR—Thank you.

Mr Tolar—I did write an article that appeared in the *Financial Review* during 1996 that did raise some concerns about the partial sale of Telstra.

CHAIR—Have you changed your view?

Mr Tolar—I have since, and that is probably why I have been asked to speak before the committee today. A subsequent article I wrote that appeared in the *Financial Review* on the Thursday prior to Easter basically sets out the reasons why I have changed my view.

Senator SCHACHT—Have we received a submission from Mr Tolar?

CHAIR—No, we have not, but we can call witnesses if we want to. You did not object.

Senator SCHACHT—I do not object: I am all in favour of free speech, but I thought it would be useful if Mr Tolar now could submit at least a written submission, even if it is a photocopy of his recent article.

CHAIR—I will table the photocopy.

Senator TIERNEY—You did not object yesterday when someone did that.

Senator CARR—How do we know how to respond?

CHAIR—I will table a copy of the article from the *Financial Review*. You have it in your folder as well, if you choose to read what is in your folder.

Senator SCHACHT—Mr Tolar, are you able to, by the end of—

CHAIR—Senator Schacht, I am asking the questions. Order!

Senator TIERNEY—Senator Schacht, you are not asking the questions.

CHAIR—Order! Senator Schacht, I have not called you and I am asking Mr Tolar a question.

Senator TIERNEY—And I would like to ask questions too, so get in the queue.

CHAIR—Senator Schacht, I am asking Mr Tolar questions so you can just wait. Mr Tolar, have you got any views about the use of the proceeds from the further sale of Telstra in reducing debt?

Mr Tolar—That was my real concern. When I wrote the initial article back in 1996, my experience in economics was not as long as Professor Quiggin's. What I did say concerned

the privatisation of assets like the Commonwealth Bank and Qantas. What happened in those instances was that most of the revenue raised from those sales was actually wasted to some extent on recurrent government spending, whereas after seeing the one-third sale of Telstra take place, most of that money, \$13 billion of that money, was used to retire public sector debt.

If the same process is used with the full sale of Telstra then I feel quite confident that most Australians would benefit through lower interest rates and, hopefully, better employment conditions.

CHAIR—Thank you very much.

Senator TIERNEY—Mr Tolar, you say that the government handled the first privatisation well. What does the government need to do in your view to handle the second privatisation well?

Mr Tolar—As I understand it, there is about \$40 billion that will be raised from the further sale of Telstra. If most of that is actually used to pay off further public sector debt and at the same time we have some safeguards put in place to limit the amount of foreign ownership as was done previously and if most of the actual shareholders or people who take up that offer are Australian citizens, I think it will be a fairly successful float.

Senator TIERNEY—Professor Quiggin, do you consider that there are ever any circumstances in which the privatisation of a previous publicly owned enterprise is appropriate?

Prof. Quiggin—Yes. The most obvious case is where the enterprise is losing money but could be sold for a positive price. That is clearly a benefit to taxpayers and I would always endorse privatisation in that case. More generally, it is a matter of trading off the price received on the sale against the loss of income to the public. If sufficient efficiency improvements can be made by new private owners—if they are willing to pay a substantial premium over the value of the asset in public ownership—the deal will come out well for taxpayers. Unfortunately, that is not the case with Telstra.

Senator TIERNEY—I take it that you still hold the view that you held 18 months ago that Telstra should stay as a government monopoly?

Prof. Quiggin—It is not strictly speaking a monopoly, but it is dominant firm. Yes, I think the evidence from the partial privatisation is that the flow of income foregone by the government as a result of privatisation—the dividends and the retained earnings of Telstra—exceeded the interest savings from debt repayment in the first year. That is very likely to continue in the future, so it is clear that initial privatisation was a financially bad deal for Australian taxpayers.

Senator TIERNEY—A little earlier this morning we heard evidence from the Department of Communications and the Arts. We asked them what other countries around the world were doing what you suggest to keep the carrier in public ownership hands. The only example they could come up with was North Korea, which is the last bastion of communism. Does it disturb you that, under your plan, we would be in line with North Korea and not the rest of the world?

Prof. Quiggin—As I have referred to in my submission, this is really the argument from fashion. Most of these countries were nationalising a wide range of government enterprises—most European countries were 25 or 30 years ago. I assume that people opposed to that would then have been told that only a few bastions of a discredited system opposed that treatment.

It is not appropriate for Australia to say that this is the international fashion and therefore we will follow it. We should be addressing the issue on its merits rather than following fashions.

Senator TIERNEY—So if we had a fully owned public carrier—the things that plagued Telstra for decades were inefficiencies, particularly overmanning—you do not think that would be a great danger to the costs, revenue and profits of this company?

Prof. Quiggin—It has been made clear by the performance of Telstra and many other government enterprises under corporatisation that, once the government drops the objective of maintaining employment, government business enterprises are entirely capable of achieving large reductions in employment if that is desired and in maintaining those. We have seen that with the performance of Telstra under the Labor government under corporatisation. We have seen it in the electricity industry. We have seen it in a wide range of industries. It seems clear that, once a firm is corporatised and told ‘Don’t worry about employment; employ the number of people that maximises profits’, government owned enterprises have found no difficulty in reducing their employment dramatically and Telstra is clearly a case in point.

Senator TIERNEY—Telstra did have some difficulty, did it not? If you look at the way in which those employment figures moved over the last six years, it is only now, when they have not only got the effect of competition but also part privatisation moving into full privatisation, that there is a significant change in the wind. Is that not true?

Prof. Quiggin—I do not believe so. I am afraid I do not have the employment figures right in front of me but my recollection of the figures is that employment has been declining for some time.

Senator TIERNEY—I am sorry; I missed that last point.

Prof. Quiggin—My recollection of the figures on employment is that it was declining prior to 1996.

Senator TIERNEY—Slowly. What is your preferred model for telecommunications, Professor Quiggin?

Prof. Quiggin—I think it is a very complex issue. Clearly, a number of errors have taken place, in particular, the duplication of physical facilities in the areas of cable TV and digital mobile telephony. My feeling is that certainly a superior alternative to what we have would have been to allow a single competitor into the digital mobile telephony area and to have given them the exclusive right to construct the network on a common carrier basis rather than having three separate networks there. As regards cable, my feeling is that it would have been preferable to have a single network constructed by Telstra but to keep Telstra out of the content business—that is, the actual provision of Pay TV services to tie up with Foxtel. So it would be a mixture of some private and some public, but a different mixture to what we have achieved. This is a complicated issue and no-one knows for sure what the ideal mix would be.

Senator TIERNEY—On page 18 of your submission, you say that the government should own Telstra because it can bear the systemic risk. Why should the government bear this if the private investors are obviously very eager—on the first float evidence—to bear that in the private sector?

Prof. Quiggin—Unfortunately, not eager to bear it at a price which would compensate the taxpayer for their loss of income. As I have just pointed out, the sale proceeds we received for the first third, when used to repay debt, did not compensate the taxpayers for the loss of

Telstra's earnings. Certainly, private interests are eager to bear the risk at a price which suits them. Unfortunately, that price is not high enough to compensate the taxpayers. That reflects the fact that the taxpayers do a better job of bearing these risks. More especially, they do a better job of bearing the regulatory risks, which Mr Blount has referred to, which are really the critical risks in determining the future earnings of Telstra.

Senator TIERNEY—But aren't all your projections based on the assumption that interest rates will remain low?

Prof. Quiggin—No. These projections are based on the assumption that this was the interest rate at the time the debt is repaid. Whether interest rates are increased or not subsequently is of no moment. More generally, the projections would not be changed at all if, for example, inflation went nominally up so that the nominal interest rate rose but the real interest rate remained constant. My view of the real interest rate is that it is about as likely to rise or to fall in the future. But what matters is the interest rate prevailing at the time that the government takes the decision to repay debt.

Senator TIERNEY—Finally, I ask Mr Tolar to expand on the reasons why he changed his views between the first partial privatisation of Telstra and what is now on offer. Could you go through the factors of why you changed your mind on that, Mr Tolar, as a professional economist?

Mr Tolar—The real reason for changing my mind was the way in which I saw the proceeds from the sale being used by the government. It was used in a way actually to go through and retire public sector debt. If we are looking at \$40 billion of potential public sector debt reduction occurring again, we are looking at a great windfall for the Australian people on an annual basis.

We are looking at roughly \$2.7 billion each year less that the government has to pay as opposed to what happened in the past with the Commonwealth Bank and Qantas. But that money was spent in maybe one or two years. There was not an ongoing benefit for the Australian people. If you actually look at the processes employed there, that will create a situation where, hopefully, interest rates should be lower, which will have a flow-on effect for the housing sector, for people wanting to start new businesses or invest further in new businesses. So from a macro-economic perspective, I think it has lots of benefits for Australian people over the longer term than it has in the past.

Senator TIERNEY—So you are taking a broader view than Professor Quiggin in saying that the flow-on benefits right through the economy, into what businesses pay in terms of their debt, what people pay in interest rates on their houses, that all of this puts the entire economy in a better position than leaving it under its current ownership arrangements?

Mr Tolar—I have not gone into as much detail as Professor Quiggin has. My gut feeling is based upon the figures I have seen. Yes, that is the view I have taken. I have looked at a broader approach as opposed to concentrating directly upon the ins and outs of financing of Telstra and the government budget.

Senator TIERNEY—Thank you very much.

Senator SCHACHT—Mr Tolar, I want to draw your attention to—and I will ask the secretary to send you a copy of Professor Quiggin's submission—where Professor Quiggin outlines in his submission that over a period of years into the intermediate future, early into the next decade, the Australian government will get more revenue from the profits of Telstra than it will from the savings from the reduction of public debt. Professor Quiggin has

explained the assumptions he has made in his submission, and he has given three different tables for his assumptions. One is a high projection, one is a low projection and one is a medium projection. If the secretary sends you a copy of Professor Quiggin's submission, it might be useful if you would comment to us on that submission and the projections because, as part of the public debate, I think that is a very relevant issue in view of your view. Would you be willing to do that?

Mr Tolar—I would be more than happy to have a look at the submission that Professor Quiggin has prepared.

Senator SCHACHT—On the issue of lower interest rates by reducing the public debt—and I think the argument generally is that there will be less competition in the marketplace from the sale of government bonds, et cetera, so therefore there will be lower interest rates because there will be less competition for money—wouldn't it be more likely that, if the present current account deficit continues to blow out to, say, six per cent of GDP, the Reserve Bank will make a decision about putting up interest rates to attract money into Australia to pay for the current account deficit irrespective of public debt? Isn't that one of the other issues that has to be put in the equation?

Mr Tolar—It is very difficult to discuss this issue directly, because there are so many 'what ifs' with it.

Senator SCHACHT—Yes, I agree.

Mr Tolar—If you actually look at the reduction strategy to the sale of Telstra in isolation, the actual impact that may have upon interest rates may be limited. But when it is put in the context of a debt reduction strategy and the movement towards perhaps a surplus next week in the budget position, all these things make it more likely that interest rates should fall.

Regarding your comment about the actual current account deficit situation which was reported recently, the big factor there is to actually have a look at who is borrowing the money—whether it is the public sector or the private sector. Although I have not looked at the figures very recently, my understanding is that most of the money we owe overseas comes from borrowings by the private sector; hence that should not really impact much upon the public sector borrowing requirement.

Senator SCHACHT—I do not think we have the time for me to take up that broader point, but I do want to come back to one other issue—and if you want to make further comment in this area, Mr Tolar, we would certainly appreciate that when you send back some remarks to us—about the reduction of public debt. There is nothing to say that in another four or five years time, in middle of the next decade, through no fault of any government in Australia the world might be in a recession, and therefore the government of the day may be required to stimulate the economy by borrowing money and going into a deficit for a period which goes on public debt for a period.

So we may pay it off, under your figure, for the next four or five years and then find subsequently that a government makes a decision to go into a deficit for a period of time, that the community wants it to do that to stimulate the economy to create employment, but therefore you have no further public assets to sell to pay that off. What is your response to that?

Mr Tolar—What we are talking about, I suppose, is one of the difficulties that economics has in dealing with the future which is quite unknown. If you actually go through and adopt

a stance where the government tries to balance a budget over the course of a cycle, that sort of situation should not arise.

Senator SCHACHT—Yes. With growth in the economy over the next years, irrespective of the sale, public debt in Australia will reduce over this part of the cycle if the government of the day starts running budget surpluses consistently. Isn't that the case?

Mr Tolar—That makes perfect sense, yes.

Senator SCHACHT—Professor Quiggin, I will turn to you now. I do not know whether you were able to hear my questioning of the finance department?

Prof. Quiggin—No, I wasn't, I am afraid.

Senator SCHACHT—I think you might have enjoyed it. We are about to have Mr Hutchinson from the Office of Asset Sales before us. In your evidence 18 months to two years ago, you said that the value of Telstra overall was in the range of \$50 billion to \$60 billion. Is that correct?

Prof. Quiggin—That is correct.

Senator SCHACHT—At the time, I think you were roundly attacked by all the so-called experts, ministers, et cetera, saying that your estimations were wrong.

Prof. Quiggin—Yes, I was criticised fairly severely at the time.

Senator SCHACHT—Heavily. Is it true that, if the government had taken note of your valuation of Telstra for the one-third sale, the government would have received a higher return on the sale of that one-third?

Prof. Quiggin—It certainly could have received a higher return. A good deal of the evidence presented an unreasonably pessimistic view of Telstra's prospects in terms of market share, based on international experience, and that was one issue that was debated. A second point was that it became clear that the government was not going to offend purchasers of the shares by allowing regulatory decisions highly adverse to Telstra; and that also pushed the market value of Telstra up. Given that those two things were going to be true, the government could clearly have asked for more money than it did for the one-third sale. But there is still a lot of value associated with the fact that, as I say, the government is more appropriate to bear the kind of regulatory risk that determines Telstra's profits than are private owners.

Senator SCHACHT—Did you make any estimation of what the government lost by undervaluing Telstra in the one-third sale?

Prof. Quiggin—Yes. I have indicated that, not counting the effect of dividend imputation, the loss in that first six months was about \$100 million. That loss is going to grow, over time, and I would estimate a loss from that first sale privatisation in present value terms of at least \$5 billion.

Senator SCHACHT—Did you say \$5 billion? Okay. On the actual sale itself, if the share price were set higher to reflect a higher value for the one-third—say, at \$20 billion out of \$60 billion, or at \$18 billion out of \$55 billion or \$56 billion, that would have also meant direct income to the government of \$3 billion or \$4 billion extra: is that correct?

Prof. Quiggin—That is right. There would have still been a loss, but the loss would have been a great deal smaller.

Senator SCHACHT—Yes. In view of the fact that you were the only one who got it right on the value of Telstra, has Finance or OASITO hired you as a consultant to provide advice on what the value of the two-thirds sale should be?

Prof. Quiggin—I regret to say I have not had any calls; but I would make the point, supporting Finance and OASITO, that they have withdrawn the idea that you can simply compare dividends and ignore retained earnings. That idea, unfortunately, is put forward by Mr Tolar in his *Financial Review* article, I think. That was the subject of violent debate at the last occasion, and Finance's expert witness on that occasion was very critical of my reference to the Nobel prize winning columnists Modigliani and Miller, who made this point first. The departments now appear to have at least silently accepted my argument that we cannot simply look at dividends but have to look at retained earnings. But, beyond that silent acceptance, I have not had any contact at all from any member of the government.

Senator SCHACHT—I noted that in your supplementary submission, Professor Quiggin. I do not think I am saying anything out of turn here but, as you just spoke to that point, I noticed that Mr Hutchinson in the audience was shaking his head negatively to your comments. I suspect that, when I put it to him, we will hear his response to your supplementary submission on this area.

Professor Quiggin, on pages 31 to 33 at the end of the submission, you have tables of the medium, low and high projection. Since you produced those tables—and we have only had them here today with your submission—have you had those tables looked at by anybody else to see whether they believe your assumptions are as reasonably based as they can be?

Prof. Quiggin—No. I regret to say that I only produced the tables on Monday: the timing for the hearing was fairly short.

Senator SCHACHT—I will ask OASITO, when they come before us, to look at your projections. Maybe they will care to contact you direct and discuss your assumptions, because I think it would be useful for the committee to have some debate about your assumptions—in view of the fact that, as Senator Carr has pointed out, you reckon that, over the period to 2007, the next 10 years, the net loss on the sale to the taxpayer is \$9 billion: is that not correct?

Prof. Quiggin—That is correct. There is an additional loss, assuming that Telstra adopts the same kind of aggressive use of dividend imputation as enterprises previously privatised by public float—like the Commonwealth Bank—have done. That would create a loss on the revenue side in addition to that loss of earnings.

Senator SCHACHT—If the committee recommended substantial changes to the arrangements for the universal service obligation—for example, making it mandatory not only that the standard telephone be provided to all Australians but also that Telstra and carriers have to provide a minimum level of broadband capacity, such as 64 kilobits per second, which a number of submissions from the regional areas certainly have suggested—would you think that those sort of changes going into the USO would lead to a substantial reduction in the value of Telstra?

Prof. Quiggin—They might have a substantial effect on the potential sale price; they would also have an effect on the earnings of Telstra in public ownership, and so those two effects would, to some extent, cancel out. A critical point—and this was a problem with the first sale privatisation—is that it is highly desirable that these decisions be made prior to sale rather than ask buyers to take a risk on which way those decisions will come out. As long as the earnings of Telstra are dominated by the question of which way the government and the ACCC

might jump, on such issues as universal service obligation, access charges for competitors, and possibly imposing reductions on local call charges—given the failure of competition to bring those forward so far—and as long as the primary uncertainty that potential buyers are facing relates to those kind of regulatory decisions, I think that the taxpayers will get an inadequately low price in the event of a sale. A decision one way or the other on these sort of issues should be made prior to any privatisation.

Senator SCHACHT—Finally, the department and the government have said that, if Telstra is fully privatised, the power of the minister will be removed and the requirement for Telstra to appear before Senate estimates committees as a standard procedure will no longer apply. In view of the fact that Telstra, even fully privatised, will still be in many areas of Australia the natural monopoly providing the telecommunications service, do you believe that some of these provisions should still be available for public scrutiny through the parliamentary process?

Prof. Quiggin—Yes. Most of Telstra's competitors have made that point, and most previous attempts at so-called light-handed regulation have proven to be relatively unsatisfactory. In particular, in the case of British Telecom, which is put forward as the primary comparison by the Office of Asset Sales and IT Outsourcing, we have seen steadily more intrusive regulation of British Telecom, as the problems of light-handed methods of regulation have become evident. If we do not retain that capacity, it will probably have to be reimposed at some point in the future.

CHAIR—Senator Margetts has a question, but we cannot hear her properly, so Senator Carr will proceed first.

Senator CARR—I will ask both the witnesses this: in your assessment, what is the impact of World Trade Organisation agreement obligations on the capacity of the Australian regulatory framework on foreign investment? I ask you also to comment on the impact of the Multilateral Agreement on Investment in that context.

Prof. Quiggin—I might start, Senator Carr. I am obviously not an expert on the legal effects of the WTA, and of course the MAI has not yet achieved its final form. But a critical point is that it is unlikely that a privatised Telstra can be retained indefinitely under disbursed ownership among Australians. In the end, the pressure for some form of effective foreign ownership or control is going to be irresistible if it is privatised. Therefore, as I said at the last hearing, rather than mounting safeguards that eventually have to be dismantled, we will be better off by getting the best price for the taxpayer that we can get, by a trade sale to a foreign telecommunications corporation. That will be the outcome in the long run in any case. Therefore, rather than the purchasers of Telstra shares in the float getting it, the taxpayers should get the benefit of the higher price that a foreign telecommunications corporation will be willing to pay.

Mr Tolar—I probably would like to be just as cautious with my comment with respect to that question, for a couple of reasons. Firstly, as the MAI has not been agreed to yet and has not been ratified by the parliament, I do not know how legitimate looking at the impact that it will have upon the sale of Telstra might be. Secondly, without my actually seeing the detail of some of these international agreements and how they may affect foreign ownership, it would also be remiss of me to comment on them further.

Senator MARGETTS—That was in fact part of the question I was going to ask about the potential impact on the multilateral agreement on investment. It is true that there is going to be a roll-back provision and a ratcheting down, whatever the outcome of the agreement, if it

is signed. Professor Quiggin, what would that mean in terms of any assurances that the government is giving now about how they will regulate or behave—considering that much of what we know now we are only finding out after the initial, partial sale of Telstra, and that some of the actions that have been taken in relation to this next tranche of the sale of Telstra are based on new information rather than on information that the government has acknowledged two years ago? What is the likely impact of the ability to maintain guarantees of public interest, if Australia signs this agreement?

Prof. Quiggin—There are two classes of safeguards that are relevant. One of them is restrictions on foreign ownership—and, clearly, the pressures to relax those are going to be present, whether or not the MAI is signed. The MAI will only intensify that pressure and, as I said previously, the likelihood that that guarantee can be sustained for any long period is very small. We are already seeing pressure to rationalise the banking industry in a way which would effectively eliminate the kind of safeguards that we were supposedly given in relation to the sale of the Commonwealth Bank. Already, of course, Qantas is effectively part of a network controlled by its main shareholder, British Airways. Any guarantee of Australian ownership of Telstra is unlikely to be sustained.

I would also make the point that it really undermines the government's case for privatisation. If Telstra is too important to be handed over to foreign telecommunications companies, why is it not too important to be handed out of government control in the first place?

Looking at guarantees such as service obligations, I would make the point that a fully privatised Telstra will of course be a standing lobby on the government to make substantial payments in compensation for those community service obligations; or else, if those moneys are not forthcoming, it will be continuously lobbying to have those obligations relaxed. So there are some difficulties there, as well.

Mr Tolar—If I could interrupt at this point, I actually have to meet that teaching obligation I mentioned to you beforehand. Is it possible for me to actually leave at this point in time?

CHAIR—Yes. Thank you very much, Mr Tolar. We appreciate your participation.

Mr Tolar—Thank you very much for giving me the opportunity to speak.

CHAIR—The committee will send you the submission so that you can respond to it, as requested by Senator Schacht. Thank you very much.

Professor Quiggin, with regard to the comment you made about the privatisation of the Commonwealth Bank, there were no community service guarantees written into the legislation for the sale of that bank, were there?

Prof. Quiggin—I was referring to guarantees of Australian ownership, in that case.

CHAIR—You were talking about community obligations to the banks.

Prof. Quiggin—No; I distinguished between two categories of guarantees. One category was guarantees of Australian ownership, which will inevitably lapse, once the banking industry mergers which are now being mooted proceed.

CHAIR—Were there guarantees in the sale of Qantas?

Prof. Quiggin—Obviously, there was a partial trade sale to British Airways, but there was certainly a claim made that that float would guarantee continued Australian dominance. There are restrictions in place on foreign ownership of Qantas that are, in my view, being undermined

by the gradual merger of Qantas into a conglomerate controlled by British Airways and American Airways.

CHAIR—Were those guarantees built into the legislation, though?

Prof. Quiggin—I am fairly sure they were, in the case of the Commonwealth Bank. I am sure you could get advice, in the case of Qantas.

CHAIR—We will, Professor Quiggin, because to make those sorts of comparisons you ought to be sure that you are comparing apples with apples.

Prof. Quiggin—Yes, that is correct. I am fairly sure that that is the case.

CHAIR—I will make very sure, Professor Quiggin, because I think it is important. The sort of comment you make carries a lot of weight, and I will make sure that what you have said is—

Senator SCHACHT—The legislation limited Qantas to 49 per cent foreign ownership: it is clear.

CHAIR—I will make sure that, if that is there, it has not been exceeded: otherwise your point is not as strong. Thank you very much. Senator Margetts has a question.

Senator MARGETTS—Professor Quiggin, both Corporations Law and competition policy seem to be the main drivers in relation to public corporations like Telstra now—and, of course, various telecommunications acts that refer back to those. Where do you see the role of public interest lying at the moment?

Prof. Quiggin—Of course, under the policy of corporatisation, the management of Telstra are obligated to pursue shareholder values, subject to explicitly defined community service obligations; and that is true of other corporatised organisations. That approach is satisfactory in some contexts. I have written a number of papers—which I could supply—discussing some of the issues. I have also given evidence in relation to Australia Post.

But there are difficulties, particularly with the kinds of services that are provided in rural areas, in specifying those things as CSOs—community service obligations. It is reasonably straightforward to require, for example, that the local call price should be the same everywhere. With the kind of idea, though, that the post office is a central component of many country towns, it is very difficult to maintain that as an obligation under this corporatised policy—and that does affect Telstra, as well.

Senator MARGETTS—Thank you very much.

CHAIR—Professor Quiggin, thank you for your participation and thank you for your submission and the additional paper. We will now be unhooking your phone link, but thank you very much for contributing.

Prof. Quiggin—Thank you.

[12.23 p.m.]

HUTCHINSON, Mr Michael James, Chief Executive, Office of Asset Sales and Information Technology Outsourcing, PO Box 4271, Kingston, Australian Capital Territory 2603

CHAIR—The committee has before it submission No. 75, which it has authorised to be published. Are there any alterations or additions that you wish to make at this stage?

Mr Hutchinson—The only amendment I note is that two text lines were omitted from the top of the original page 9, and I understand the corrected pages have already been

provided. We have also updated some of the graphs and tables to account for market activity since the submission, and I have here update copies of the updated graphs and tables.

CHAIR—Thank you. Do you wish to make a brief opening statement?

Mr Hutchinson—Yes. Thank you. The Office of Asset Sales and Information Technology Outsourcing welcomes the opportunity to assist the committee in its consideration of this bill.

Senator SCHACHT—Mr Hutchinson, is it just basically a precis your submission?

Mr Hutchinson—No, Senator. It is not. It is an opening statement.

CHAIR—Is it adding anything to the submission?

Mr Hutchinson—It is adding to the submission.

CHAIR—Thank you very much.

Mr Hutchinson—The bottom line of our submission is that further sales of Commonwealth equity in Telstra are feasible, desirable and in the interests of all of the company, its customers and its suppliers, the present investors and the nation. While many of the specific terms of reference of the committee are the principal responsibility of other agencies of government, I take this opportunity to add some comment from OASITO's perspective and from the experience of its officers.

Concerning term of reference (a) which deals with accountability, the simple answer is that this bill puts in place essentially the same standard accountability regime that applies to any and all Australian listed public companies that have private shareholdings and are also subject to general competition policy and selective industry specific regulation in the public interest.

The requirements of continuous disclosure to the market under both ASC and ASX requirements provide a higher degree of ongoing public transparency than applied under sole government ownership. The ongoing scrutiny of the company by a veritable army of professional investment analysts supports this transparency within increasingly informed expert commentary.

The commercial pressures of the market and the company's accountability to its private shareholders create an accountability for efficiency maximisation within regulated obligations that aligns with the public interest. The regulatory investigative and review powers of the ACCC, the ACA, the TIO and the Minister for Communication and the Arts by way of licensing conditions and the like, all supported by parliamentary oversight, provide a formidable array of mechanisms to hold the company, and indeed any carrier, to account for its actions in the public interest.

The important universal service obligations are clearly established in law with clear, transparent, accountable and inescapable mechanisms for keeping them up to date and for enforcing them. All these powers and mechanisms are themselves subject to appropriate accountability by way of transparency, judicial review and/or parliamentary scrutiny and disallowance.

Concerning term of reference (b) dealing with public sector finances, we suggest that the principal effect which should be considered is that of focusing government finances, management and leadership on the core business of government. That core business no longer includes the ownership of or investment in commercial business activities within the market economy.

Other submissions have dealt with the directly quantifiable public finance effects, but we do not seek to replicate that work within OASITO. Rather, we make the point that the efficient

pricing of a secondary public share offer by a market that is fully informed pursuant to standard Corporations Law requirements will reflect the currently expected present value of both the future dividend stream and capital growth. Thus there is no loss of presently expected future value to the Commonwealth by selling rather than holding the equity.

Concerning term of reference (c) dealing with service delivery, we simply observe that to the extent that such delivery is necessary but non-commercial—

Senator SCHACHT—Madam Chair, I have a point of order. I think that these are excellent comments from the point of view of the Office of Asset Sales, but they ought to be part of the submission. In view of the time constraints we are under, all this is going to do, I suspect, is reduce the time for committee members to ask questions. Nothing that Mr Hutchinson has said I find is factual information additional to the submission that is already put in. It is just further argument, and I think that some of that will come out just by questioning.

CHAIR—Mr Hutchinson, because we are running to a tight schedule, yesterday we asked witnesses to not only table evidence but said that we would incorporate it into *Hansard* so it could come into the normal flow as if had you said it. I think that would assist us if you are prepared to do it.

Mr Hutchinson—I am entirely in the hands of the committee. I am happy to table copies of the opening statement. I was about 50 per cent of the way through it.

CHAIR—It is taking time. We are running behind, and we have other people to hear. I appreciate that. We will incorporate it into *Hansard*. Is it the wish of the committee that the document be incorporated in the transcript of evidence? There being no objection, it is so ordered.

The document read as follows—

Senator,

The Office of Asset Sales and Information Technology Outsourcing welcomes this opportunity to assist the Committee in its consideration of the Telstra (Transition to Full Private Ownership Bill) 1998.

Our submission is with the Committee. The only amendment I note is the two text lines that were omitted from the top of page 9. I understand that corrected pages have already been provided. We have also updated some of the graphs and tables to account for market activity since the submission. These will be provided to the Secretariat.

The bottom line of the OASITO submission is that the further sale of Commonwealth equity in Telstra is feasible, desirable and in the interests of all of:

- the company;
- its customers and suppliers;
- its present private investors; and
- the nation.

While many of the specific terms of reference of the committee are the principal responsibilities of other agencies of Government I take this opportunity to add some comment from OASITO's perspective and from the experience of its officers.

Concerning term of reference (a) dealing with accountability, the simple answer is that the Bill puts in place essentially the same standard accountability regime that applies to any and all Australian listed public companies that have private shareholdings and are also subject to general competition policy and selective industry-specific regulation in the public interest.

The requirements of continuous disclosure to the market under both ASC and ASX requirements provide a higher degree of ongoing public transparency than applied under sole government ownership.

The ongoing scrutiny of the company by a veritable army of professional investment analysts supports this transparency with increasingly informed expert commentary.

The commercial pressures of the market and the company's accountability to its private shareholders create an accountability for efficiency maximisation within regulated obligations that aligns with the public interest.

The regulatory, investigative and review powers of the ACCC, the ACA, the TIO and of the Minister for Communications and the Arts by way of licensing conditions and the like—supported by Parliamentary oversight provide a formidable array of mechanisms to hold the company—indeed any carrier—to account for its actions in the public interest.

The important universal service obligations are clearly established in law, with clear, transparent, accountable and inescapable mechanisms for keeping them up to date and for enforcing them.

All these powers and mechanisms are themselves subject to appropriate accountability by way of transparency, judicial review, and/or Parliamentary scrutiny and disallowance.

Concerning term of reference (b) dealing with public sector finance we suggest that the principal effect that should be considered is that of focussing Government finances, management and leadership on the core business of Government.

This no longer includes the ownership of, or investment in, commercial business activities within the market economy.

Other submissions have dealt with the directly quantitative public finance effects, and we do not seek to duplicate that work within OASITO.

Rather, we make the point that the efficient pricing of a secondary public share offer by a market that is fully informed pursuant to standard Corporations Law requirements will reflect the currently expected present value of both the future dividend stream and capital growth. Thus there is no loss of presently expected future value to the Commonwealth by selling rather than holding the equity.

Concerning term of reference (c) dealing with service delivery, we simply observe that to the extent that such service delivery is necessary but non-commercial, it will be—and is—required by law and is unavoidable. We also note that most other essentials of contemporary life, even in regional and remote Australia, are delivered by commercial means, supported where necessary by regulatory intervention, rather than by Government ownership of the commercial service delivery business. Telecommunications need be no different.

Concerning terms of reference (d) and (e) dealing with regulatory safeguards and the adaptability of the standard service for USO purposes, I defer to my colleagues from the Department of Communications and the Arts and from the relevant regulatory agencies that may be offering views to the Committee.

I simply note that my own decade of close involvement in telecommunications regulatory policy issues leaves me persuaded that the structure of the Australian model for consumer protection and universal service regulation that is independent of ownership, and that was first developed by Government in 1988 and extended in 1991 and 1997, is not only effective and adequate, but is now also probably in advance of any other such regime anywhere in the world.

But I also note that, even if you were able to construct a case that the regime needed enhancement, retention of ownership of equity in Telstra and of the present ownership oversight arrangements could not be used for that purpose. The mechanisms for this are properly all in the regulatory arena, and are already decoupled from ownership. Any attempt to use an ownership position to achieve such objectives could be unlawful, unworkable and carry serious risk of disadvantaging minority shareholders.

It is sometimes tempting—but erroneous—to regard the ownership of equity in a company as conveying an unfettered right to control that company at will. That is not the nature of public company structures, nor of their ownership. Nor should it be, even where that control is sought to be exercised benignly by Government in pursuit of its view of the public interest. The decision to forego such "control by ownership" in favour of separate regulation and the efficiencies of the company form was taken in 1992 when the then AOTC Ltd was established by the then Government in the legal form of a company rather than as an agency of Government.

Concerning term of reference (f) dealing with employment and economic activity and regional Australia, I recall my advice to this committee's predecessor in 1996. This was to the effect that the best means of ensuring that regional employment and regional development are soundly based and sustainable is to ensure that regional services are provided as efficiently as possible and on a commercial basis.

Others will give evidence that the communications employment market has shown substantial growth despite employment reductions in Telstra—indeed, perhaps because of those reductions in some cases. Others will, no doubt, also give evidence that efficient telecommunications affords the means for the efficient decentralisation of some economic activity, whether that be by way of regionally located call centres, regionally located "back office" processing centres, or simple telecommuting. Supported by competition and an adaptable standard telecommunications service provided on a universal basis through unavoidable regulation, the efficiency of a fully privatised company affords the best prospects of optimising these effects.

But even if you do not accept that view, it remains that there is nothing more that the Government can properly and lawfully achieve through retention of ownership than it can do by means of separate regulatory action, taken separately from ownership responsibilities.

Concerning term of reference (g) dealing with industry development and R&D, there is simply nothing in the current ownership or regulatory arrangements that requires or causes Telstra to do anything in these respects other than what its regulatory obligations and commercial interests mandate. Full privatisation will change nothing in this respect. Telstra will remain subject to the industry development obligations that apply to all carriers and that were introduced for this purpose by the then Government in, I recall, the 1991 Act.

Concerning term of reference (h) dealing with competitive advantage and foreign ownership it is our view that residual Government ownership now imposes a competitive disadvantage on Telstra because of the way it inhibits possible capital raisings, participation in mergers and acquisitions, and an appropriate positioning on the risk/return frontier of this industry.

The relevance of foreign ownership in this respect is unclear; the regulated limits on foreign ownership allow sufficient international participation for the commercial purposes of a globalising Australian company. While they do preclude any foreign takeover or large strategic stake, this does not appear to pose any competitive difficulty for the company.

Senators, OASITO was privileged to support the Government in managing the initial public share offer for Telstra, an offer that is widely regarded as having been highly successful in meeting its objectives.

We look forward to supporting whatever sale structure is decided upon to divest the residual Commonwealth equity in the company.

I am happy to answer the Committee's questions.

Canberra

6 May 1998

Senator SCHACHT—As the person in charge of the Office of Asset Sales and involved in the process of the one-third sale of Telstra, you were here, I think, when Professor Quiggin made some comment by speaker from Townsville. It is true that, when he suggested the value of Telstra in the one-third sale process was around \$55 billion, he was roundly condemned by all sides for being out of the ball park. With the capitalisation of one-third of the market value, he has now been proven correct. He was closer to the value of Telstra than any other advice we had at that time, including from yourself. Is that not correct?

Mr Hutchinson—For the record, I do not believe that, in my evidence or the evidence of the department of finance to this committee's predecessor, we did anything that could be characterised as roundly condemning Professor Quiggin.

Senator SCHACHT—One minister did, and he was called Senator Alston. Nevertheless, he is not your minister.

Mr Hutchinson—We were critical of aspects of his analysis. At no stage in that evidence do I recall—and we certainly sought to avoid doing so—expressing a view on the value of the company. We expressed a view on the methodologies for valuing the company but, at that stage, in Telstra 1, we did not wish to comment in public on the value and, at this stage, in Telstra 2, we also do not choose to comment in public on the likely value of the company.

Senator SCHACHT—But, if you had taken notice, even partially, of his estimation, you would have set the price for the shares at a higher level than they were at issue and therefore the taxpayer of Australia would have received more value from the one-third sale. Instead, the taxpayer, at the moment, has probably taken a bath—Mr Quiggin says it may be \$3 billion or \$4 billion, and maybe \$5 billion—in lost value. How do we know that you will not make the same mistake again on the full privatisation, and cost the taxpayer this time \$10 billion?

Mr Hutchinson—As you will see from the submission and the analysis of the pricing arrangements for Telstra 1 on page 20, Telstra 1 was priced with reference to bids by the market which valued the company. Had we sought to charge a price—

Senator SCHACHT—Of course they are going to give it a lower bid. They are not mugs, are they? If they could take you down, they will put a lower price in.

Mr Hutchinson—Had we sought to price the offer some \$3 billion higher, which would be a price in line with Professor Quiggin's analysis, we would not have sold all the shares, very simply, because we did not have enough bids on the table to sell the shares at that price. We had plenty of bids on the table to sell at \$3.40, but not sufficient on the table to price it at Professor Quiggin's levels. There was not the demand in the marketplace for shares at that price. Professor Quiggin's analysis is analytically very interesting, but we sold shares to people in the marketplace who were bidding and buying with their money—putting their money where their mouth was.

Senator SCHACHT—That is the very point. Surely you should recognise that they are not going to put in the highest bid, are they? They want to get the shares at the cheapest possible price. That is the whole point of the capital market. They saw you coming 100 miles off and said, 'Thank you very much, we will take the value', and walked away with several billion dollars at taxpayers' expense.

Mr Hutchinson—The government set the price based on not the advice of one professor of economics in Townsville—

Senator SCHACHT—I wish you had.

Mr Hutchinson—But on the advice of several of the world's leading investment analysts drawn from across the world and reinforced by market research, reinforced by conversations with several hundred institutions, reinforced by clear evidence of bids and bid prices and a clear indication of what people were prepared to pay. The government has expressed itself confident that it obtained the correct, fair price at the time.

Senator SCHACHT—Mr Hutchinson, you were the head of the Office of Asset Sales and responsible for advising the government on all the advice coming in. The taxpayers took a bath of \$2 billion, \$3 billion, \$4 billion as a result of your operation taking all that advice from all those so-called wonderful analysts. It is not often we have a public servant before us who was in charge of a process that cost the taxpayer between \$2 billion and \$4 billion at a minimum. It is not often we have that example before us. All I can go on is that Professor Quiggin made his evaluation. He was bagged by Senator Alston as a ratbag all over the place

at the time, yet he got it right according to the market value. The taxpayer has lost significantly. Of course, the analysts' market bids and tenders were going to come in at the lowest price. They wanted to make a quid out of it. I cannot believe that you are so naive as to not make the judgment that they would underbid the value of the company because they wanted to get hold of it and make the major price.

I will now turn to foreign ownership. Is it not true that, when the shares were allocated to foreign investors, the idea was that this would encourage major foreign telcos and institutional investors of great weight and substance to invest in Telstra and add to the stature and status of the company? But is it also not true that, in America, a lot of these shares went to companies, banks and institutions that by no means could be considered major institutional investors? They got the shares and sold them within a few days and made quite a killing. How do you stop that happening again?

Mr Hutchinson—Senator, it is not true. You cannot stop people trading shares in a publicly trading company.

Senator SCHACHT—But you allocated them the shares.

Mr Hutchinson—We allocated the shares but it is not true that the shares were allocated largely to companies that then on-sold.

Senator SCHACHT—The article I will draw your attention to, from memory, was by Mr Ivor Ries in the Chanticleer column of the *Australian Financial Review*. He exposed the fact that a number of these very small companies with no international standing made quite a killing. Do you refute his article? He got it wrong?

Mr Hutchinson—I do not recall the article well. I do not recall an article that in any way suggested that Telstra equity was placed with small offshore companies with no substance.

Senator SCHACHT—That is even worse, then. The big ones got it and made a killing and sold out. This shareholding was given to them. The argument in the legislation and in the second reading speech as the justification for a one-third sale of which one-third would go to a foreigner was to add stability, institutional know-how and substance which would lead to an international company still in Australian majority control. They took you for a ride. They took the shares and sold them quickly at a significant profit and we ended up with them disappearing off the register.

Mr Hutchinson—I am not sure whether we are having a debate or whether I am answering questions.

Senator SCHACHT—This is a comment about what happened.

Mr Hutchinson—Let me simply answer your question by saying the fundamental premise of your question is wrong. The international share register is largely stable. Yes, some have sold. Yes, others who declined to bid for shares in the book have bought. But the international register is substantial and stable and the international investors are taking an active interest in the company.

Senator SCHACHT—I will not proceed any more because we are just going to have to agree to disagree. All I know is that your process cost Australia.

Mr Hutchinson—The facts are that the international register does not have the characteristics you have outlined.

Senator SCHACHT—All I have to say is, generally, this process of the one-third sale cost Australian taxpayers between \$2 billion and \$4 billion.

Mr Hutchinson—That is not a correct analysis.

Senator SCHACHT—It is a correct analysis. You undervalued the company and sold it to guarantee a big interest—a big sale—and said, ‘Isn’t it wonderful? Everyone’s buying shares.’ That was the political decision of the government, and you were part of it as the leader of the OASITO. Is it true, Mr Hutchinson, on the full privatisation that the fee for stockbrokers, consultants, et cetera, is a maximum of two per cent of the total value of the sale?

Mr Hutchinson—No. We have not yet set the fees, but any stockbroker who expects to get fees as high as two per cent will find themselves not working for us. The fees we set on Telstra 1 were the lowest on record and the fees we set on Telstra 2, I can foreshadow, will be lower than the fees on Telstra 1 because that is appropriate for a secondary offer.

Senator SCHACHT—I may have this recollection wrong. I have not read the material for some weeks since I saw the second reading speech and the explanatory memorandum; it said in there that the cost and the fees would be set at a maximum of two per cent of the total value of the sales. Is two per cent of \$40 billion not \$800 million?

Mr Hutchinson—Two per cent of \$40 billion is \$800 million, and two per cent of the proceeds is an order of magnitude of the estimate of the total cost of sale which does not only comprise brokers’ fees. It also comprises substantial logistics costs, banking costs, advertising costs and the like, which make up a very significant proportion of that two per cent.

Senator SCHACHT—Apart from the brokers’ fees and the consultants’ fees, what do the other logistics costs come to? Would they be \$100 million, or \$500 million?

Mr Hutchinson—At this stage I am reluctant to speculate on what they might be but I could, if you wished, put my hands on what they were for Telstra 1 and indicate that there are not significant departures, but it is of the order of about \$125 million.

Senator SCHACHT—It is \$125 million for the—

Mr Hutchinson—The non-brokers’ fees.

Senator SCHACHT—The non-brokers’ fees. So is that for the one-third privatisation?

Mr Hutchinson—Yes.

Senator SCHACHT—Put that up by another two-thirds, and that is going to be around \$400 million?

Mr Hutchinson—No, the costs of an offer of this scale are largely fixed, so it is about \$125 million to pay for an offer in the tens of billions range.

Senator SCHACHT—Mr Hutchinson, could you take it on notice from the committee to provide us with more detail? If it has to be in confidence because you do not want to affect your arrangements with firms, et cetera, I will have it provided in camera or in confidence. I think it would be useful to the committee. I would certainly find it useful to get that breakdown, as you have generally outlined, of how the \$800 million would be broken up.

Mr Hutchinson—Senator, there is no more detail about how a figure of \$800 million might be broken up. I can give you a lot of detail about how the costs of Telstra 1 are broken up but all we have done is indicate that we should be able to contain sale costs within two per cent. There is no more detailed estimate than that at this stage.

Senator SCHACHT—That is still \$800 million?

Mr Hutchinson—No, I am very carefully saying that we have estimated that the costs of the sale are likely to be of the order of two per cent of the proceeds. You have said that is \$800 million; I have said—

Senator SCHACHT—It is two per cent of \$40 billion and that is in the bill. These are the figures that have been floating around on what the value of two-thirds would be.

Mr Hutchinson—I am not going to confirm or deny figures that are floating around. I am in a position where I may have to manage a large share offer and foreshadowing price expectations is not in the interests of the Commonwealth, so I am just not going to endorse a particular figure for that purpose.

Senator SCHACHT—Could you indicate that a part of the two per cent, which may be \$800 million, will go to foreign broking houses—foreigners, foreign companies, foreign analysts, foreign broking houses—rather than Australian?

Mr Hutchinson—I can indicate that it is highly likely that a proportion of the selling commissions will go to foreign-owned stockbrokers, yes.

Senator SCHACHT—I want to point out that this \$800 million for the servicing of the cost of the sale is over three times what the government is spending on its Networking the Nation fund of \$250 million over five years. The consultants and the brokers, in one fell swoop, will get three times as much as rural Australia will get from Networking the Nation. Does that not give some idea of which priority this government has and of whom they are looking after first?

Mr Hutchinson—This is merely paying a competitive market rate for a service if the government chooses to buy that service.

Senator SCHACHT—No wonder they are enthusiastic about privatisation when they get their hands on \$800 million; you would be in champagne for the rest of your life. Can I now ask what stage you are at in letting any contracts for the privatisation process? Or do you wait for the legislation to be passed and/or proclaimed after the election—if the government wins it?

Mr Hutchinson—We have let two contracts which have a short-term focus. They were let shortly after the government made its policy announcement. There were two contracts to provide analytical support to the Office of Asset Sales in handling the policy process through the development of legislation, the debate on the legislation, in this committee's hearings. We have one contract with ABN AMRO Rothschild and the Investment Bank to provide us with advice and we have one contract with lawyers Freehill Hollingdale and Page to provide us with legal advice. Those contracts presently run until the end of July. We have given no significant attention to letting the substantive contracts that would manage the sale offer for the government.

Senator SCHACHT—How much are those two contracts worth?

Mr Hutchinson—My recollection is that the contract with ABN AMRO Rothschild is worth of the order of less than \$100,000. The contract with Freehill Hollingdale and Page is worth a lesser amount than that.

Senator SCHACHT—So you are saying that no further contracts on the process of the sale to consultants to merchant banks or anybody else will be let until after the election, until the people have decided whether or not they want to fully privatise Telstra?

Mr Hutchinson—No, Senator, that is not what I said. What I said is that we have not yet taken the decision to make any further appointments and we have not yet addressed the question.

Senator SCHACHT—In view of the fact that the Prime Minister has made great fact to strengthen the point that the people will decide this at an election, although this legislation will go through, it will not be proclaimed. Do you think it is proper that you should be getting into more contracts, that even though these are two minor ones to start with, you may be letting more contracts before the people have decided?

Mr Hutchinson—It is eminently proper for the Public Service to let contracts in support of the government's policy position. The extent to which we proceed is a matter for judgment by the government and the decision and judgment will be taken by the government not by me.

Senator SCHACHT—But the letting or issuing of further contracts, for advice in the logistical process: is that your decision or the minister's decision?

Mr Hutchinson—Whether to let it will be a political decision.

Senator SCHACHT—Whether to let it? Once it is decided to let it, it is your decision who gets it, of course, under due process.

Mr Hutchinson—Correct.

Senator SCHACHT—Could you take on notice that, when and if the government does choose to let any further contracts before the election, advice be provided to this committee as a legislative committee of the Senate?

Mr Hutchinson—I have no difficulty, because the letting of such major contracts is a very public operation. It attracts public attention and the outcome is gazetted.

Senator SCHACHT—Mr Hutchinson, under the foreign ownership or full privatisation—35 per cent or a maximum of five per cent per foreign owner per foreign shareholder—do you have any information on how those lots or that 35 per cent will be traded? Will it be trade sales, bidded by tender, or will it be put onto international stock exchanges or a mixture of both?

Mr Hutchinson—As I understand the government's policy, there is no intention to proceed by way of trade sale. The limit of five per cent on any individual foreign holder would preclude most trade sale parties from taking part, because five per cent is simply too small a quantity to have a significant influence on the company. It would be my expectation at the present that any international tranche of a future sale will be by way of public share offer.

Senator SCHACHT—On the present share register for the one-third, who is the largest Australian shareholder at the moment?

Mr Hutchinson—The largest shareholder is a company called Westpac Nominees, who are nominee holders on the part of mainly superannuation and pension funds. The top 20 shareholders are identified on page 23 of our submission.

Senator SCHACHT—I am sorry; let me get to that page. They have 5.6 per cent?

Mr Hutchinson—No, they had 5.6 per cent on issue. They are now the registered holders of 8.4 per cent.

Senator SCHACHT—So they now have 8.4 per cent. The next one is National Nominees. They are all under five per cent, running down.

Mr Hutchinson—I draw your attention to the fact that the fourth largest holder of shares is the Telstra employee share ownership plan trustee. So the fourth largest owner of shares in the company are the employees collectively.

Senator SCHACHT—It is the Telstra superannuation fund: is that what you are saying?

Mr Hutchinson—No, it is the 92 per cent of Telstra employees who invested in the company. They have invested through this trust as part of the employee share ownership scheme and that is the employee ownership of the company.

Senator SCHACHT—If Telstra goes to the full privatisation, are they going to make the same extraordinarily generous offer? You would have been a mug as a Telstra employee not to take up the offer. You were guaranteed a minimum price and you were offered interest-free loans to buy it. You could not lose. I have spoken to lots of Telstra shareholders who are Telstra employees at the grassroots level in the last six months and still strongly support public ownership but they said when this offer was made you would have been a mug to knock it back, when the money was provided interest-free. You could buy it at a guaranteed price it would not drop below, otherwise Telstra would buy it back. Why would you not buy? Do you know whether Telstra is going to make the same offer on the full privatisation to all its employees?

Mr Hutchinson—There have been no discussions about the form of any particular element of the offer structure at this stage.

Senator SCHACHT—My description of the generous arrangement from Telstra is correct, is it not?

Mr Hutchinson—The employee share offer was entirely consistent with the incoming government's election policy commitments.

Senator SCHACHT—I am not saying it is not. I am just saying they were offered interest-free loans and they were offered a guarantee that, if the price dropped below a certain level, they could sell it back at the purchase price to Telstra. Is that not correct?

Mr Hutchinson—I do not think you have accurately characterised the nature of the employee share offer. The purpose of my outlining that the employee share offer was entirely consistent with the policy of the government announced at the election was to indicate that I did not wish to enter into a debate on the merits of the policy.

Senator SCHACHT—When you go and talk as I have to many hundreds of individuals and groups of Telstra employees in the last six months, they say openly, 'You would be a mug not to take up the offer of the generous support management gave them to buy the shares.' That does not deny the fact that most of them said, 'We don't want Telstra sold'. Actually most of them said, 'We would rather keep our jobs quite frankly than be sacked and be one of the 26,000.' That is another issue for Telstra to deal with. I note that you make those points. In the list here which is the largest foreign owner of shares in Telstra at the moment?

Mr Hutchinson—I do not immediately have that to hand.

Senator SCHACHT—Is Citicorp Nominees at the international level or the Australian operation?

Mr Hutchinson—I do not know whether the Citicorp Nominees listed there has deemed Australian status because it is managing Australian funds or whether it is an international investor. If Citicorp is not, then that will be the largest shareholder. I understand that Westpac

Nominees has declared that it holds 2.4 per cent of the shares on behalf of a range of foreign persons, so the largest foreign shareholder is likely to be Westpac Nominees.

Senator SCHACHT—With 2.4 per cent?

Mr Hutchinson—But that will be on behalf of a range of—

Senator SCHACHT—Is it possible from the register—I know these are complicated matters and often difficult; companies themselves have difficulty tracing all these things—but is it possible to break out what is the foreign ownership level? At the moment I know that the full one-third of the one-third did not get taken up. It is less than that now. Can we get a breakout like that you have just explained, such as Westpac Nominees is 2½ per cent foreigners.

Mr Hutchinson—I thought that figure was in our submission but the present level of foreign ownership or the level of foreign ownership at 4 May was 7.2 per cent.

Senator SCHACHT—7.2 per cent?

Mr Hutchinson—It is important to point out that—

Senator SCHACHT—Does that include the government ownership?

Mr Hutchinson—Yes.

Senator SCHACHT—That makes it about 21 per cent of the one-third that was privatised. Is that right?

Mr Hutchinson—It is on page 22 of our submission, Senator. It says that 21.6 per cent of Telstra is owned by foreign institutions.

Senator SCHACHT—My calculation is correct.

Mr Hutchinson—It is slightly above the foreign ownership level at the time of listing.

Senator SCHACHT—But it is still well below the 33 per cent that was allowed at that time.

Mr Hutchinson—Yes.

Senator SCHACHT—Why was the small increase allowed from 33 per cent foreign ownership in the one-third to 35 per cent? I know it is only a small change, but why?

Mr Hutchinson—It was always 35 per cent of the equity that was sold.

Senator SCHACHT—I thought it was 33⅓; it was one-third of the one-third?

Mr Hutchinson—No, it was 35 per cent of the one-third.

Senator SCHACHT—Okay, I am sorry. I stand corrected. Mr Hutchinson, do you have any idea of what would be the impact on the value of the company if, as requested by many submissions to this inquiry, the power of the minister to direct a fully privatised Telstra were left in as well as the requirement for Telstra, because it is a natural monopoly in so many areas of telecommunication provision, to appear before Senate estimates committees on a regular basis?

Mr Hutchinson—I would say that if the power to direct was left in, following the exit of the government—

Senator SCHACHT—The government is a shareholder—say a golden share operation, you might call it.

Mr Hutchinson—A golden share is usually much more circumscribed than the power of a direction. The power—

Senator SCHACHT—Okay, the power of direction?

Mr Hutchinson—To leave the power of direction, as it now stands in the legislation, following the government's exit from the share register, would have a negative effect on the sale price. The size of that negative effect is very hard to predict but it certainly would not be anything other than negative.

The requirement of the company to be accountable to the parliamentary committees is interesting. It is a matter for the committee structure as to whether it actually has the power to call a non-government owned company before an estimates committee but, certainly, the parliament has the power to call any company or any person before it if it so chooses. I do not believe that would be an enormous negative effect on the company, other than a negative effect, I think, on the motivation of some of the senior managers.

Senator SCHACHT—That is their problem, not ours. But you could put it in the present legislation that Telstra, even fully privatised, shall, when required, appear before a Senate estimates committee to answer questions about their operation, particularly in view of the fact that it is a monopoly provider in so many areas.

Mr Hutchinson—Senator, I would want to suggest that the parliament might question whether the estimates committee is the right forum or, indeed, whether it is within the power of the estimates committee, but I would not question whether the parliament, as the sovereign body, has the right to call anybody before it at any time if it so chooses. There is no need to legislate to that effect.

Senator SCHACHT—All I am saying is that this committee is the legislative committee and the estimates committee. Four times a year, Telstra turn up because they are, in one form or another, in the budget papers, even if it is only one line saying that they have not required any money from the government for this year's operation.

They are a monopoly operator in so many areas in provision of service and as a monopoly operator they do have an impact, even beyond the present regulatory functions that are put elsewhere in the Telecommunications Act and the Trade Practices Act. Is that not true?

Mr Hutchinson—I guess I would argue that the parliament has thought very long and very hard over a large number of years about the regulatory arrangements it wishes to put in place for telecommunications. It has enacted a series of accountability measures in the regulatory legislation to give effect to that. Those measures have carried within them their own level of parliamentary supervision.

Beyond that, it really is a matter for telecommunications policy if you want to hold the company to account for something other than its commercial conduct.

Senator SCHACHT—The point I made to the finance department was that if it had not been for an estimates committee the saga of the CoT cases I doubt would have been successfully dealt with. Hopefully, we will get a conclusion in the near future. Telstra used its monopoly position—and it is still basically a monopoly in many areas—to affect an outcome with its customers.

They used their weight, their commercial power and their financial resources against individual consumers. They have still got that weight in the marketplace. Which other company, Mr Hutchinson, has 85 per cent plus of the business in Australia? Anywhere in the private sector, is there a company that has 85 per cent of the business and is fully owned by shareholders, not government owned? Can you give me an example?

Mr Hutchinson—I would have to research that, so I cannot give you an example. I do not know whether there is one or not.

Senator SCHACHT—I will be very surprised if there is one. The only ones would be those that are established by parliament and public monopoly.

CHAIR—Senator Schacht, it is now 1 o'clock. Senator Margetts, I presume, will have questions; Senator Tierney has questions; and Senator Lundy has questions. Senator Tierney, please ask your questions now.

Senator TIERNEY—Mr Hutchinson, you have had experience in communications over a very long time and at a very senior level and have observed the operations of Telstra as a full monopoly right through to its current position. What do you see as the main reasons for privatising, or having full privatisation of Telstra?

Mr Hutchinson—There are probably three reasons. The first is that, in the words of Frank Blount, it is a halfway house in which the government has sold a third of the shareholding but the public sector appears to be reluctant to let go of the associated controls. This creates a loss of focus within the company in pursuing its objectives, in pursuing its obligation to its shareholders.

Secondly, it is increasingly clear that the provision of risk capital for an enterprise as large and as dynamic as Telstra is now one that the private sector voluntary investors will provide. That frees the government of the need to provide that risk capital, and it takes the government out of an area of its operation which is no longer called business—that is, investing taxpayers' money in commercial sector activities.

The third reason is that the Commonwealth faces repeated suggestions of potential conflict of interest between its regulatory role and its ownership role in Telstra. I understand that the government does not accept that this conflict of interest has become an actual conflict of interest or has led to any effect.

Senator SCHACHT—You qualified yourself very rapidly there, Mr Hutchinson; you nearly got Senator Alston into big strife.

CHAIR—Senator Schacht, you will refrain from interjecting.

Mr Hutchinson—But it is quite clear that there are many people in the marketplace who do not accept that, and it is quite clear that the continuing potential for conflict of interest and a continuing perception of conflict of interest does cause a difficulty. Clarity of purpose is very important to public policy.

Senator SCHACHT—The government might not agree with that view.

CHAIR—Senator Schacht!

Senator TIERNEY—Stop interrupting during answers.

Mr Hutchinson—Clarity of purpose is a fairly important element of public policy, and the more you can clarify your purpose by exiting from activities that are not part of your core activity the better you can get on with your core job.

Senator TIERNEY—Earlier in today's evidence we heard that the only example of a country with a full monopoly that officers could think of was North Korea. I have thought of one since: Iceland. So I think we have two in that position. Could you just outline some of the inefficiencies that we would still be contending with, comparing the position of a full monopoly Telstra with a fully privatised Telstra?

Senator SCHACHT—A fully privatised monopoly.

Senator TIERNEY—Come on, stop interrupting. I did not ask you, Senator Schacht; I asked the officer at the table.

CHAIR—Senator Schacht!

Senator TIERNEY—Just control your tongue, motormouth.

Senator SCHACHT—You have misdescribed the situation.

Mr Hutchinson—Senator, there are two forces that work: one is the force of privatisation; the second is the force of competition. Both take some time to be unleashed. I think the evidence of the introduction of competition into full monopoly industries worldwide is that the full benefits of competition take quite a long time to work through. The full benefits of privatisation perhaps come more quickly, but they still take some time to come through. From that point of view, the late start to both privatisation and competition in Australia has been a handicap to Telstra in meeting the needs of its customers and in meeting the needs of the Australian advanced economy.

The effect of Telstra as a full monopoly was that it just was not responsive to its customers. It was Telstra, as a full monopoly, that laid the groundwork for the CoT cases that Senator Schacht referred to a short time ago. A monopoly is not responsive to its customers. With regard to privatisation, it is already clear from my contact with Telstra and its senior executives that the views of investors in the company—institutional investors, private investors—are beginning to be influential on things like the efficiency of the capital use of the company, the efficiency of capital expenditure, the efficiency of capital—

Senator SCHACHT—And in reducing services.

CHAIR—Senator Schacht, refrain from interjecting.

Senator TIERNEY—You can't help yourself, can you?

Senator SCHACHT—I am just helping him along.

CHAIR—He does not need your help.

Senator SCHACHT—He certainly does today, I can tell you.

Senator TIERNEY—How are the employers in a fully privatised Telstra likely to benefit from that sort of arrangement?

Senator SCHACHT—Twenty-six thousand have been sacked!

Senator TIERNEY—I didn't ask you, Senator Schacht.

Senator SCHACHT—That is the benefit they have got!

CHAIR—Senator Schacht, order!

Mr Hutchinson—It is always very difficult to indicate how, in any particular case, the enterprise will respond to privatisation. Indeed, it is the determinism of public ownership that tends to inhibit enterprises from responding to market opportunities and the like. There are articles cited in the attachment to our submission that have done empirical work indicating that, on average—although I do not expect this to be the case in Telstra—privatisation overseas has led to an increase in employment.

But it is also the case that the evidence from overseas indicates that, almost universally, employees in privatised industries have earned higher salaries. I do not expect Telstra to

increase employment through privatisation, because it still has some way to go to respond to the competition by reducing its cost to world best practice. But I do expect Telstra to be able to pay its employees better in the future, as their productivity comes through and as they take advantage of the higher value market opportunities that are open to them.

Senator TIERNEY—Thank you.

Senator SCHACHT—Are you willing to give evidence for the union's case to increase salaries, when it occurs?

CHAIR—Senator Margetts has the call.

Senator MARGETTS—I wanted to ask Mr Hutchinson whether, when he was given his role of Chief Executive of the Office of Asset Sales, one of the bases upon which he was chosen was his enthusiasm for asset sales.

Mr Hutchinson—The position was advertised in the media, a search consultant was engaged and a Public Service selection committee was appointed, chaired by the Secretary to the Department of Prime Minister and Cabinet; and I can only assume that the proper process was followed, leading to my appointment. I was not asked at any stage about my enthusiasm. I think the selection criteria really had to do with the capacity to implement the government's policies.

Senator MARGETTS—Thank you. Would you like to comment on whether you believe that the market is the same as, and equals, public interest?

Mr Hutchinson—No, I do not believe that it is axiomatic that in all circumstances the market equals the public interest. It is for that reason that the operation of the market in many industries is accompanied by industry specific regulation. The existence of the Telecommunications Act and the telecommunications specific provisions in the Trade Practices Act are clear evidence that the parliament has recognised this in enacting its legislation.

Senator MARGETTS—Do you believe that the provisions that are currently there are sufficient to ensure public interest?

Mr Hutchinson—I understand that that is the government's position.

Senator MARGETTS—And what is your position?

CHAIR—It is not relevant what Mr Hutchinson's position is. He does not have to answer that question, Senator Margetts. Do you have any other questions?

Senator MARGETTS—No, thank you.

CHAIR—Thank you very much. Senator Lundy has some questions.

Senator SCHACHT—I want to follow up about Mr Hutchinson's personal view.

CHAIR—One question.

Senator SCHACHT—Senator Tierney asked you a question about the advantages of privatisation. I think you gave three points in favour of privatisation. Were they your view, as head of the Office of Asset Sales, or were they the government's view?

Mr Hutchinson—They were my view, as head of the Office of Asset Sales, and they were not inconsistent with government policy—nor did they call upon me to pass any comment or reflection on government policy.

Senator SCHACHT—I know, but I just want to get it clear. You actually expressed those views as the head of the Office of Asset Sales?

Mr Hutchinson—Correct.

Senator SCHACHT—Thank you.

Senator LUNDY—In your submission, rather than actually trying to quantify any net benefit to the taxpayer, in chapter 4, 'Benefits of selling residual holding in Telstra', you appear to reverse the onus of proof, and you state:

Critics of privatisation need to demonstrate why the policy and regulatory framework is inadequate, why any perceived deficiencies cannot be addressed by changes to the framework and why public ownership is the only solution to the perceived problems.

Why did you choose to confront the arguments against privatisation in that way and not actually to quantify the issues—in response, for example, to Professor Quiggin's submission, who attempts to actually map out some of the equations and, in doing so, attempts to demonstrate a net loss of benefit to the Australian taxpayer?

Mr Hutchinson—There are two issues in your question. The first is the relationship between ownership and regulation. The point that we are making here is that essentially the stage we have reached in Australia is that there is no relationship between ownership and regulation. Whatever view you may take of the regulatory framework that applies in Australia, government ownership is now irrelevant to it. That is the first part.

Senator LUNDY—You directly contradict yourself in terms of the previous statement to that sentence, which says:

In other words privatisation cannot be considered in isolation from the regulatory framework and the nature of the competition and access regime.

Can you please clarify what you are saying?

Mr Hutchinson—The nature of the regulatory arrangements has an effect on privatisation. The market reads the regulation arrangements as to whether they are favourable or unfavourable to the ownership. But ownership is not a tool that you can use to effect regulation. Regulation is effected by the laws of the parliament applying to the company, independently of ownership. That is the model for telecommunications regulation that has now been in place in this country for approaching 10 years.

Senator LUNDY—But given the quantification of the net return or otherwise to the taxpayer as a process of the sale, in the context of this political debate, you are still contradicting yourself—given that the actual return to government is contingent upon the regulatory regime and the associated risk for Telstra in moving into a wholly privatised environment.

Mr Hutchinson—I am sorry, Senator, but I did not understand the statement you made.

Senator LUNDY—You are still contradicting yourself in that those two issues—the regulatory environment and its nature, and the perceived value of Telstra in relation to potential changes in the regulatory environment—are in fact linked. You say so yourself in a subsequent analysis using overseas examples. I am asking you to explain the contradiction between the two statements that you have made.

Mr Hutchinson—The problem I have, Senator, is that I do not see a contradiction. I do not understand why you think there is a contradiction. I am having difficulty in answering the question because I do not understand the foundation you have laid for it.

Senator LUNDY—Perhaps we will just have to peruse your answers on the record and identify from them exactly what the position is that you are taking as the executive officer of the Office of Asset Sales.

Mr Hutchinson—Senator, I am happy to clarify my position. My position is, firstly, that the regulatory structure for telecommunications in Australia is not within my agency's responsibility. You had evidence on that issue from the Department of Communications and the Arts this morning. Secondly, the ownership of a company is not relevant to regulation. Ownership cannot be used by the government to redress any flaws it may see in the regulatory arrangements. That is my position, quite clearly. Thirdly, in the event that the regulatory arrangements were changed or left the same, the market would take a view of that, and that would affect the value of the company. It would not affect the value of the company differentially, as between the company in government ownership or the company in private ownership.

Senator LUNDY—Are you aware of whether ABN AMRO has made any assessment as to the risks associated with the regulatory regime, in its advice to you?

Mr Hutchinson—We have not yet had that analysis done. The regulatory regime, in our understanding, is stable and there are no proposals that I am aware of to change it. If there were such proposals, then we would have them analysed.

Senator LUNDY—You do not consider the current situation regarding the review of the universal service obligation as representing any degree of instability in that consideration?

Mr Hutchinson—The review of the USO has long been foreshadowed. The market has formed a view on that and has factored that in to the price of the shares on the market at the moment. In the event that that review leads to an outcome which is wildly different from that which the market may have collectively assessed, then, yes, there will be an effect on the value. The share price will go up, or else it will go down.

Senator LUNDY—Has the Office of Asset Sales and IT Outsourcing discussed this particular issue with the ACCC?

Mr Hutchinson—Not to my knowledge. No, we have not.

Senator LUNDY—What have you discussed with the ACCC in relation to the process in which you are engaged of selling the residual holding of Telstra?

Mr Hutchinson—We have no process at the moment for the sale of the residue of Telstra. We have had no conversations with the ACCC on that matter at all.

It is very important to understand that the government's policy in Telstra 1—and we would expect the government's policy in Telstra 2 and subsequently—would be that the sale price obtained is not to be influenced by backing off on the pro-competitive regulatory policy of the government. Therefore, at no stage have we, as the officers responsible for the sale processes, sought to influence in one way or the other any of the government's pro-competitive regulatory measures.

Senator LUNDY—In part of ABN AMRO's terms of reference that you provide to them, surely an assessment of that regulatory risk is part of that, and they would be required to consult with the ACCC at some point.

Mr Hutchinson—We have not yet come to that element of their work program. Yes, we have had informal discussions with our advisers who have raised the question of regulatory risk with us. We have made it quite clear to them that, from where we sit, the government's pro-competitive telecommunications policy is not something which is up for variation in the

interest of the sale process. What is necessary is for the sale process to be aware of the government's policy, and to ensure that the sale process is fully informed by it, so that we can acquit our job of making sure that the market is fully informed when we issue a prospectus.

Senator LUNDY—By your business advisers, I presume you are talking about ABN AMRO?

Mr Hutchinson—Yes.

Senator LUNDY—What is their relationship with DoCA and what degree of consultation has occurred between them and DoCA?

Mr Hutchinson—Their contractual relationship is with the Commonwealth through the Office of Asset Sales and Information Technology Outsourcing. They consult with DoCA when they are required to do so by work they are doing for us.

Senator LUNDY—Given that we heard early this morning that DoCA have had discussions with the ACCC on matters relating to regulatory use, it could be a fair assumption that ABN AMRO could get that information from DoCA.

Mr Hutchinson—There is certainly no problem with information flow within the Commonwealth and between the Commonwealth and its advisers. That is the nature of the Commonwealth.

Senator LUNDY—Do you think it is appropriate that, given your previous statement that you have no relationship with respect to the Commonwealth's regulatory regime and this sale, that the business advisers to you on this matter do have access to information about the considerations and future directions of the ACCC on telecommunications competition?

Mr Hutchinson—I do not believe we have any access to the considerations of the ACCC. We had consultations with DoCA. In the event that there are confidential matters within DoCA or confidential matters with the ACCC, they will remain confidential.

CHAIR—Thank you for your attendance.

[1.18 p.m.]

MEAGHER, Mr Bruce Michael, Manager, Government Affairs, Optus Communications, 101 Miller Street, North Sydney, New South Wales 2060

O'DONNELL, Ms Deirdre, Manager, Regulatory Strategy, Optus Communications, 101 Miller Street, North Sydney, New South Wales 2060

SUCKLING, Mr Adam, Group Manager, Regulatory Policy, Optus Communications, 101 Miller Street, North Sydney, New South Wales 2060

CHAIR—The committee has before it submission No. 69 which it has authorised to be published. Are there any alterations or additions that you would care to make at this stage?

Mr Meagher—Yes. I would like to provide the committee with some draft legislative provisions which give effect to some of the matters we canvass in our submission. Following last week's committee hearing, where it was requested that parties might provide some drafting, that is happening at the moment and will be provided to the committee. When that happens, we, and other parties, will indicate which of those drafts we support. There are at least two other matters where we would be supporting some legislative amendments put forward by AAPT or Macquarie Telecommunications. I could also indicate that AAPT and Macquarie will make it known directly to you. They have also indicated to us that they support these proposals.

CHAIR—Thank you. It is tabled. I presume that was your brief opening statement.

Mr Meagher—Our position on this process is that we believe that there are some real difficulties in the existing regulatory regime and some reforms could be made that would cure or potentially cure most of those problems. That is largely about adopting processes that already exist in gas, electricity and in other regulatory regimes for telecommunications, such as the UK and the US. If those steps are to be taken, as we believe they should, it is an appropriate thing to do it prior to privatisation for a number of reasons. We can explore those issues if the committee members wish. They are canvassed to some extent in our submission.

CHAIR—Thank you very much, Mr Meagher.

Senator SCHACHT—Mr Meagher, I take it that page 18 of your submission, paragraph 6, recommendations (a) and (b), is the actual wording that you have now circulated to us. It says:

Optus will provide proposed drafting to the Government and the Committee.

Is that what you have just tabled?

Mr Meagher—That is what we have just tabled.

Senator SCHACHT—Are they the only two specific recommendations? You have given a lot of evidence about why you think you might need those changes, but they are the only two specific recommendations of change to the legislation.

Mr Meagher—We would also support two proposals that are being put which deal with part 11B of the Trade Practices Act. This part is fundamentally about access arrangements. It goes to competitive conduct as well. There are a couple of recommendations to speed up expedition of the use of the pro-competitive terms.

Senator SCHACHT—Who is putting those recommendations?

Mr Meagher—I think Macquarie.

Senator SCHACHT—Macquarie are doing that? That is the people who turned up last week at the hearing.

Mr Suckling—And also AAPT.

Senator SCHACHT—AAPT and Macquarie. There was one other company there, I think.

Mr Meagher—Global One, I think.

Senator SCHACHT—Global One. Have you discussed those with them?

Mr Meagher—Yes, we have.

Senator SCHACHT—Have you reached agreement with them on what those Trade Practices Act changes should be?

Mr Meagher—We have. At the moment it is really a matter of lawyers trying to sort out the technical issues.

Senator SCHACHT—Have those three companies that gave evidence last week reached agreement on these drafts that you just tabled?

Mr Meagher—I would not want to speak for them too much, but they have seen these and told us that they agree with them. AAPT, at least, said they were comfortable for us to refer to that. I do not think that Macquarie would have a problem with us saying that they agree with it either. But they will separately communicate their agreement to the committee.

Senator SCHACHT—In today's press there are suggestions that the minister, Senator Alston, has asked his department for advice on the logistics of further amending the Telecommunications Act on these issues that are contained in your and other submissions about competition. Has the minister or the government directly sought the view of Optus in recent days on these issues? Have you put specifically these proposals to them as well?

Mr Meagher—Yes, we put the proposals to the government a few weeks ago.

Senator SCHACHT—Have they indicated whether they would be willing to consider, if they think they are appropriate, that these amendments go in this package of bills on the privatisation?

Mr Meagher—Again, I would not want to speak for the government. We have certainly been very pleased that the minister is very open to considering the proposals that have been put to him. I believe that he has asked his department to examine these proposals and a number of other proposals that other groups have put. We certainly have had a lot of cooperation from the minister and his department in assessing these things.

Senator SCHACHT—Your main concern is that, if Telstra is fully privatised under the present regulatory structure, you will be in a worse position than if Telstra stays in majority government ownership? Is that correct?

Mr Meagher—We think that informal processes and checks that currently exist because of the nature of public ownership would disappear and that some of the imperatives of private holding would make it much more difficult in the competitive market for us.

Senator SCHACHT—What is your view about privatisation per se?

Mr Meagher—We are agnostic on the subject.

Senator SCHACHT—But the issue here is a practical one: you as a competitor to Telstra. If Telstra is privatised without these amendments, do you believe your position will be significantly worsened in the marketplace?

Mr Meagher—We think there is a real risk that that will be the case. I should say that, irrespective of the ownership issue, we believe these amendments are sound and good policy.

Senator SCHACHT—Yes.

Mr Meagher—Part of the problem is that, if the government, the committee and the parliament agree that they are good policy, it will be very difficult to implement this after privatisation precisely for some of the reasons that Mr Hutchinson was referring to about the certainty of the prospectus and the interests of shareholders who have made investment choices under one set of assumptions about regulatory change.

Senator SCHACHT—I would have to say that, having seen the prospectus for the one-third, the Labor Party made it very clear that there are a number of issues that we reserve our right to, and they include national interest issues. We believe national interest is competition in a number of circumstances. If that means adjusting legislation, we will do so; if it means giving directions to Telstra on adjustment to competition, we will do so. We make no bones about that.

Mr Meagher—I might actually add that having said that, and I think that is a real concern, we are also of the view—and this goes to the question of whether there is a likely effect on the value of Telstra from some regulatory change—that the market must assume that the government and the parliament mean something when they talk about a pro-competitive regime and that there will at some point, by some means, be an erosion of Telstra's market share. I

do not think that means value, because the market will grow, but that something will give at some point either through regulatory change or market action.

Senator SCHACHT—Does Optus have a view at the present stage on what Telstra's share of the market is?

Mr Suckling—What you refer to is about 80 per cent.

Senator SCHACHT—I have used 80 to 85 per cent. It all depends how you actually measure, I know.

Mr Meagher—It is different in different markets as well. If you take the local core market, it is 99—

Senator SCHACHT—It is 99.9 per cent.

Mr Meagher—Yes.

Mr Suckling—In the long distance market we have about 20 per cent; and in the mobile market I think it is 46 per cent to Telstra, 36 per cent to us and the rest to Vodafone—I think that is about the split up.

Senator SCHACHT—But when you put the total value of all those markets together, I think the 80 per cent, 85 per cent figure is a fair ballpark figure.

Mr Meagher—It is a fair ballpark figure.

Senator SCHACHT—Mr Stevens from DoCA said today that yesterday at an ATUG meeting Mr Anderson, the chief executive of Optus, made some remarks about competition and also said that he would be making some adjustments to your attack on the local loop, that you were increasing your broadband connections, et cetera. If you cannot do it now, would you provide more information on notice about what Mr Anderson actually said yesterday on the competition issues?

Mr Meagher—We would be happy to provide the committee with a copy of Mr Anderson's speech.

Senator SCHACHT—One thing Mr Stevens said—and I do not know whether he was there—was that Mr Anderson said that your broadband telephony connections are now going to be substantially increasing. Is that correct?

Mr Meagher—That is intended, yes.

Senator SCHACHT—Is it intended, or is it happening?

Mr Meagher—They are increasing, Senator; we are gradually increasing the rate of increase, if you like. That will ramp up throughout the course of this year.

Senator SCHACHT—Can you give us some idea of where you will be, say, at the end of the next financial year; what sort of telephony connections will you have on your broadband?

Mr Meagher—I would be reluctant to do that at the moment, but I would not mind taking it on notice.

Senator SCHACHT—If you are going to float Optus later this year, which is suggested, surely that is germane to the prospectus and to the shareholders?

Mr Meagher—Certainly, it will be. Could I offer to provide you with some material, subject to consultation?

Senator SCHACHT—If you want to put it in confidence, fine. The reason is not so much to have a go at whether you are getting 10 connections an hour or 1,000 a week or whatever,

the argument is about competition—when you make what number of telephony connections in the local loop before someone like the ACCC says there is competition. If you get 1,000 a week, which was one suggestion I heard some time ago, that is 50,000 a year. After 10 years, at that rate, it is 500,000. It is about competition in 10 years against 6½ million Telstra local loop connections. When do you reach critical mass on effectively having competition on your infrastructure, irrespective of the interconnect price?

Mr Meagher—That certainly is an issue and I will provide you with that information. I suppose the point to bear in mind is that that network presently goes past about 2.1 million homes, out of just under eight million homes throughout the country. So even though we may get a substantial number of connections in those areas—and I know this opens me to attack on certain things—there will be large parts of the country, assuming that nobody else wires it up, which will not be subject to that sort of competition.

Senator SCHACHT—If you can provide that, as I say, I am happy to take that in confidence for the committee. I accept that at the moment but, when you float, this is going to be information that you cannot hide.

Mr Meagher—It will be public information, Senator.

Senator SCHACHT—It will be public information. Also on that, you clearly have more straight pay TV connections than you do telephony, I presume.

Mr Meagher—Yes.

Senator SCHACHT—Again, if you could provide us some information on that. This is something that Professor Fels argues about and I do not necessarily agree with him: do people take the telephony as an adjunct to the pay TV or are they taking telephony and then getting the pay TV, or do you have any connections where people just take the telephony without the pay TV?

Mr Meagher—Again, if you do not mind, I will take that on notice. I have not personally looked into how that works.

Senator SCHACHT—In other areas, Professor Fels has been making his decisions about Australis, et cetera. On the issue of competition there was the telephony take-up and whether pay TV dragged people in.

Mr Meagher—Its driver.

Senator SCHACHT—There is evidence from England it may be the other way around, but this is all debatable.

Mr Suckling—May I just add to that? In the pink herring Telstra released, there was discussion of the connections between those two markets. There was not discussion of what drove what—was it the telephony or the TV—but certainly the connection was mentioned there in that prospectus.

Senator SCHACHT—The question I will put to you now is about your complaint against Telstra being the dominant carrier. Optus, of course, is the second carrier in Australia. You have had five years start on everybody else because you paid for a licence. You might say you paid too much for it, but you did get a big start and became the second carrier—and are still the second carrier in Australia under the duopoly-triopoly model from 1992 to 1997. Now it is open. Are some of the issues that you take up against Telstra similar to some issues that smaller, newer players—service providers and other new carriers coming in now—take against Optus, that you do not make your network as open and transparent to them as you claim Telstra does not make it to you?

Mr Meagher—I suppose there are a few things to say about that. The first is that we actually have a very active wholesale business. It is a very important part of our revenue so we are very keen to encourage wholesale. You might have recently seen that we have become heavily involved in the Internet, wholesaling to ISPs, and that is very important for us.

I think it is probably true that there are going to be circumstances where competitors will complain that we have been unreasonable. Maybe sometimes they are right and often times that is just the way competition works. The way that trade practices law generally works is to assess market power and to determine whether someone is misusing their market power. If a player does not have market power and is merely negotiating, then that is regarded as a legitimate commercial activity. So I suppose our view is that, were we to have market power and were we to be misusing it, we should be subject to these sorts of laws. But, if we do not, the competitive and commercial arrangements should apply.

Senator SCHACHT—Can I give you an example? If a service provider wanted to obtain access to the network elements used to deliver Optus's Business Net Premier product, would Optus allow access on the same terms and conditions which it is currently seeking from Telstra in relation to local call services?

Mr Meagher—I would have to take that on notice. I do not know enough about that specific product.

Senator SCHACHT—This is a specific product. I am happy for you to take it on notice. Some service providers say, 'You're developing a product, getting access to the market using your infrastructure et cetera. Can we have access to the same terms and conditions that you are asking from Telstra?' This is transparency.

Mr Meagher—It would really depend on whether the product and the infrastructure formed a bottleneck as to whether it should be regulated in the way that we are suggesting. If it is not a bottleneck and if there is competing infrastructure—and Telstra, for example, has a similar product—then it should not be subject to this form of regulation. It might be subject to other regulations such as the anti-competitive conduct regulation if that were occurring. In principle, where there is competing infrastructure, the competition should be the driver of reduction of cost or provision of those services. But I am happy to look at the particular product and tell you exactly how we deal with it.

Senator SCHACHT—Take it on notice.

Mr Meagher—Which product is it?

Senator SCHACHT—It is called Optus's BNP, Business Net Premier. Does it ring a bell?

Mr Suckling—Yes, it does.

Mr Meagher—I do not know enough about the details.

Senator SCHACHT—It does not ring a bell with me, I have to say, but then—

Mr Meagher—But you are not a large corporate—

Senator SCHACHT—it is just one of those millions of acronyms in this industry. Can I ask about the amendments that you have just tabled? They deal with ring fencing, the transparency of Telstra's costs. Do they specifically deal with the issue that, by amendment to the legislation, will be dealt with or are you just asking ACCC to have further power to investigate?

Mr Meagher—Effectively, we are suggesting that the ACCC have a discretion to introduce those measures, although there is some explanation of what they would entail. No, it does not

enact that regulation, it merely says to the ACCC, 'This is what you should do.' Given that the ACCC has already done this sort of work in gas and electricity, it is not a terribly difficult task; it should not be rocket science for them.

Senator SCHACHT—I have to say sometimes it is a bit like rocket science for some aspects of the ACCC.

CHAIR—Have you got any questions, Senator Lundy?

Senator SCHACHT—Can I just finish off on this particular point: the reason I raise it is that if you are just referring it to give the power for them to investigate, doesn't that just obfuscate to the side and you end up with endless legal litigation and debate before the ACCC? You are not actually saying, 'This ring fencing cannot occur. Transparency must occur under legislation.' There is no argument. You are just transferring that discussion off to the ACCC for endless hearings, litigation and debate, and ending up in the Federal Court, the High Court or whatever and being just another big income earner for your law firm and everybody else's who has to be employed?

Mr Meagher—Whatever the legislative arrangements, someone is going to have to give content to them, I think. If the parliament were minded to go further than we are suggesting, then I am sure we would be very happy. But we think that it is sensible to allow the regulator operating in the market, knowing about the way other markets work, to have this discretion.

Senator SCHACHT—You might just, as an alternative, give us the one on which you say you would be happy if we went a bit further, because if it does remove endless litigation and the cost of litigation and argument, in the end the consumers get a cheaper price. They do not have to pay the cost of the overheads of lawyers. They have done pretty well out of the maritime dispute at the moment so we should not give them another free kick in your area. So please provide us with that.

Mr Meagher—Certainly.

Senator SCHACHT—Thank you.

CHAIR—Senator Lundy has one question that she would like to put on notice. She will give it to you now so you do not have to wait.

Senator LUNDY—Just earlier in the hearings today, Mr Stevens from DoCA made several comments in relation to the nature of the non-profitable aspects of Telstra's infrastructure. I wanted to ask Optus whether you could have a look at those comments and provide a response to the committee, if in fact you see it is appropriate? Certainly I would find it very interesting to hear your views in response to the comments by Mr Stevens.

Mr Suckling—We certainly can. By way of formal response now, the one key question which comes to the heart of our proposal is that Telstra's costs, and what is profitable or not profitable, is a black box that no-one but Telstra knows. The real difficulty sometimes with commenting on those things is that we simply do not know, which goes to the heart of the difficulty that we have in trying to negotiate interconnect arrangements with Telstra. Certainly, we will look at those.

Senator LUNDY—That point was made by the carriers at the hearings last week in Sydney very stridently. So I just note again your views on it now.

Senator TIERNEY—Does Optus have any objection in principle to the remaining two-thirds of Telstra moving to private ownership?

Mr Meagher—That is a matter for the government and the parliament as far as we are concerned. Our concern is that the regulatory regime be right. We are concerned, as I said before, that moving to privatisation before putting that regulatory regime right has some dangers in it, and we would not want to see that happen before the regulatory change.

Senator TIERNEY—On page 4 of your submission, you say that Australia's telecommunications market is not very competitive. We are only 10 months into the post-1997 deregulated regime. Is it perhaps a little early to make a judgment like that?

Mr Meagher—Some people may say this reflects on Optus. We have been in the market since 1991-92.

Senator SCHACHT—You enjoyed the duopoly.

Mr Meagher—Prices from that point started to fall in markets such as long distance and international. But one of the main reasons that the marketplace is not competitive is that Telstra's control over the local loop means that local call prices have gone up—unlike anywhere else in the world that has had a liberalised regime—and interconnection prices have gone up, which affects, of course, the price of long distance and international. That is totally against the trends throughout the rest of the world. We say that the reason for that is Telstra's monopoly control on the local loops gives them power to take action such as that.

Senator TIERNEY—There was a situation—it must be almost a year ago now—where you were advertising low price calls, and that sort of evaporated. Where are you up to with providing competition in the local market?

Mr Meagher—We have about 40,000 directly connected customers who can get 20 per cent local calls. As I said to Senator Schacht, that number will increase. Those people are restricted geographically, and we are rolling out the ability of the network to deal with that.

The other aspect of local call competition is resale of the existing Telstra product. You might have noticed that we recently took a deal from Telstra to resell their local call. That was not a deal on commercial terms that we wanted to accept. The price that we were offered, we believe, bears no relation to Telstra's cost and it is an uncommercial price.

However, in order to offer our customers what they want, which is a single bill—this is one of the prime motivating forces for taking an alternate service and therefore bundling that with long distance and the competitive benefits there—we accepted that at a six-month price. We hope that, either through ACCC action or through regulatory change such as this, we will be able to find out what Telstra's true costs are and get a price that means that, ubiquitously, metropolitan and rural, we will be able to offer cheaper calls.

Senator TIERNEY—I believe that one of the reasons you have had difficulty breaking into the local call market is some problems with your system software. Is that resolved now?

Mr Meagher—We believe that those problems are resolved, and we are connecting customers. We are being cautious about that. A telephone service is very important to people. We would not want to rush in and try to connect more people—massively ramp up—so we have taken a very conservative approach to that. Yes, we have solved those problems and we are connecting customers.

Senator TIERNEY—You talk about Telstra's advantage on page 6 in your submission being because of its vertically integrated nature. Do you think Telstra is putting more emphasis now on its wholesale business rather than regarding it as a bit of a nuisance, as I think it seemed to do in the past?

Mr Meagher—I think it is fair to say that Telstra does see the value in the wholesale business and that, for example, Mr Doug Campbell and others have many good intentions. The problem is one of culture, we believe. Telstra has a mindset which is the mindset of the monopolist. A very good example is the example of British Telecom.

The kinds of regulatory change that we are suggesting were implemented by OfTel a few years ago. Most importantly because they forced BT to publish its costs, they broke the culture in that organisation. British Telecom executives will now tell you that, rather than trying to restrict the market by keeping interconnection prices up, they have found new markets and new streams of revenue in wholesale business which they never thought existed. There are niche players providing services which are not economical for BT to provide.

While Telstra recognises the wholesale market is important, we do not think it has made the cultural shift yet. We are not confident that Telstra, of its own motion, will make the cultural shift.

Mr Suckling—Just to add to that, there still remains, as Bruce so rightly pointed out, a conflict of interest between running businesses at the retail level and having a wholesale offering. Bruce has pointed out that, while it is true that Telstra is putting more emphasis on it, we still see very often this conflict played out in meetings. Currently we are trying to negotiate a deal on Internet interconnect, which should be a wholesale offering, and the person we need to negotiate with is the person who runs Telstra's Big Pond retail offering. That split and that conflict and contradiction is not overcome by Telstra under this current structure.

Senator TIERNEY—In the United Kingdom, the second player is Mercury. What is happening over there is the new players seem to be going after Mercury more than British Telecom. Is that starting to happen here in relation to Optus and Australia's Telecom?

Mr Meagher—I do not know that you could be as black and white as that. There is vigorous competition in a number of places and we are under pressure to compete. You might have seen that we recently launched an ad campaign directed to the business market where we will be doing some more aggressive pricing in long distance and international calls. Like everyone in this market, we have to make competitive offerings and our market share is under pressure.

Senator SCHACHT—This question should be taken on notice in view of the time. Do you have a view about the operation of the customer service guarantee and the way it operates? If so, could you let us know what they are? If the universal service obligation is significantly changed by adding new services to it—such as minimum provision of 64 kilobits per second to everybody because you have to pay a proportion of the universal service obligation—do you have any view about whether they are onerous on Optus as a second carrier? If you want to give a view about that, could you take it on notice.

CHAIR—We do not have time for you to answer. If you have time, could you look at the submissions where they actually suggest extensions to consumer service guarantees and get back to us about whether that would affect you as a provider and a carrier.

Mr Meagher—We are quite well aware of—

Senator SCHACHT—There are two issues: customer service guarantee, as it affects Telstra and how it flows back in administration to second and other carriers; and, secondly, the universal service obligation. This is a different issue because, once you put that in, you pay proportionately the cross-subsidy.

CHAIR—A number of submissions have suggested extending them. If it is possible to have that to us by Friday lunch time, that would be most helpful.

Mr Meagher—We should be able to do that. Senator Lundy's question referred to Mr Steven's evidence. Do you have any idea when we might be able to get that?

CHAIR—If you could give us a note on that as soon as you get it. You will most probably get it on Monday. If the rest could come in before then, we would appreciate that. I would like to thank you for appearing and for your submission. I apologise for running late.

Proceedings suspended from 1.49 p.m. to 2.26 p.m.

[2.27 p.m.]

CAMERON, Mr Ronald John, Director, Telecommunications Policy Coordination, Australian Competition and Consumer Commission, PO Box 1199, Dickson, Australian Capital Territory 2602

SHOGREN, Mr Rodney F., Commissioner, Australian Competition and Consumer Commission, 470 Northbourne Ave, Dickson, Australian Capital Territory 2601

CHAIR—Welcome. Are there any changes you would like to make to your submission?

Mr Shogren—We did not make a submission.

CHAIR—Do you wish to make a brief opening statement?

Mr Shogren—Yes.

Senator SCHACHT—How long is your statement?

Mr Shogren—Because we did not make a submission, I was going to say quite a bit about our experience with administering the act. Do I take it that you would rather spend the time otherwise?

Senator SCHACHT—How many pages is it?

Mr Shogren—It runs to seven pages.

CHAIR—We do not have time for you to read it.

Senator SCHACHT—Can I move that we have it incorporated in *Hansard* and have it photocopied immediately and given to members of the committee.

CHAIR—Yes. There being no objection, it is so ordered.

The document read as follows—

The Senate Legislation Committee
on
the Environment, Recreation, Communications and the Arts
Inquiry into Telstra (Transition to Full Private Ownership) Bill
1998
Opening Statement
by
Mr Rod Shogren
Commissioner
Australian Competition and Consumer Commission

It is not the role of the ACCC to provide advice to the Government on policy or on legislation. Our role, rather, is as both a law enforcement agency and a regulator. In each of these roles we are administering the Trade Practices Act. While the Trade Practices Act applies in the broad to telecommunications and to Telstra as a market player in telecommunications, the two telecommunications-specific parts of the

Trade Practices Act which came into operation on 1 July 1997 are obviously particularly relevant to Telstra.

Those two parts of the Trade Practices Act are Part XIB, dealing with anti-competitive conduct in telecommunications, and Part XIC, dealing with access to telecommunications services.

It needs first to be said that these Parts, like other Parts of the Trade Practices Act, apply to Telstra regardless of its ownership. In that sense, selling the remaining Government owned portion of Telstra has no implications for the way in which the ACCC administers the Trade Practices Act.

What may be useful for the Committee is to outline the ACCC's activities in the telecommunications area, particularly as they have an impact on Telstra, and to say something of our experience in administering the new Parts of the Trade Practices Act.

The ACCC's activities in telecommunications can conveniently be divided into three areas: enforcing the prohibitions in the Trade Practices Act relating to anti-competitive conduct, regulating access to services, and consumer protection. The regulatory framework extends well beyond the Trade Practices Act and includes the universal service obligation, the requirement for continued provision of untimed local calls, the customer service guarantee, privacy provisions, and so on that are set out in the Telecommunications Act, which is administered by the Australian Communications Authority rather than the ACCC. The Telecommunications Act also provides for the making of industry codes including consumer codes.

I shall not be dealing with those matters administered by the ACA. Nor shall I say much about our continued role in consumer protection, except that we have been vigilant on matters such as misleading advertising of mobile phone services and advertising of long distance rates.

What I do want to concentrate on is the new areas of ACCC activity in telecommunications dealing with anti-competitive conduct and access.

It is the access provisions of the Trade Practices Act which are most important in influencing the structure of telecommunications markets and the development of competition in them. The anti-competitive conduct provisions of the Act, by contrast, can be seen as dealing with problems that remain despite the application of the access regime. Of course, the need for a specific access regime for telecommunications stems from an ex-monopolist in a network industry retaining substantial control over network facilities and information. Similarly, the rationale for telecommunications-specific anti-competitive conduct provisions derives from concerns about the potential for misuse of the substantial market power inevitably retained by an ex-monopolist.

The Commission has had an extremely full agenda of access issues. Transitional provisions in legislation were applied, first, to deem a number of services as declared from 1 July 1997 and, second, to impose a reduction in access prices from that date. The joint effect of these determinations was a wide range of new service offerings being made almost immediately the new regime came into operation, with a substantial reduction in the prices of long distance services both domestic and international. However, it must be conceded that the processes for declaration of additional services are not quick.

At that early stage the Commission also issued Access Pricing Principles which we believe have assisted in access agreements being reached through commercial negotiations.

The next items on the Commission's agenda were to put in place arrangements particularly relevant to mobile telephony in the lead-up to the current spectrum auction. That was a priority of the Government. These matters dealt with intercarrier digital roaming and a facilities access code. The latter sets out the terms on which carriers are required to provide access to facilities such as mobile towers and sites and underground facilities, with an emphasis on the desirability of co-location, thus reducing the need for duplication of the facilities.

Concurrently the Commission assessed and approved an access code submitted by the Telecommunications Access Forum, a body set up under the Trade Practices Act, consisting of carriers and carriage service providers, to develop industry views on access issues.

Following those activities, priority was given to dealing with access to various data services. These services are particularly important in the development of competition for providing new products to business, and the priority accorded to this work was in accordance with information provided to the Commission by Telstra's competitors. Two draft determinations have been issued on data services, a third will be issued shortly, and the determinations are expected to be finalised during this month.

The next area of focus is on local call services. This is a very substantial portion of the market and raises complex and interlocking issues relating to where other carriers are able to interconnect with Telstra's network and also the question of local call resale. The Commission has released an issues paper and will shortly be receiving submissions after which a public hearing is scheduled for early June.

Once this round of access inquiries is complete, which will be in the next three months, the long term framework for interconnection and access to telecommunications services by carriers and carriage service providers will be substantially in place. However, the determination of the terms and conditions on which access is provided will take longer. Primacy is placed on commercial negotiation between an access provider and access seekers. However, an access provider can also submit an undertaking to the ACCC on the terms and conditions on which it proposes to meet its access obligations.

The Commission is currently assessing a Telstra undertaking. This is a large project which goes directly to the question of Telstra's costs. The ACCC has established an industry working group to assist in the task.

Alternatively, an access seeker can ask the ACCC to arbitrate on terms and conditions of access. There are no notifications of disputes requiring arbitration before the Commission at this time. The only notification that we did receive was withdrawn when a commercial agreement was reached.

In our view, the access provisions of the Trade Practices Act are generally working well and as intended. After the initial burst, access arrangements are being sorted out somewhat slowly. That is the nature of the process, but progress has been quite rapid compared with the development of competition in other jurisdictions, given the time since open competition was introduced in Australia. The difficulties that the ACCC has faced have generally been minor, a significant one being the need to improve the level of understanding of market participants in the regulatory processes, eg the need to substantiate views about how declaration of a service would promote the long term interests of end-users.

The ACCC has also been busy dealing with allegations of anti-competitive conduct. Most, but by no means all, of these allegations have been against Telstra.

So far, the Commission has not taken formal enforcement action by issuing a Competition Notice or commencing court proceedings. That is because the Commission has not to date reached a view that there has been a contravention of the Act, despite having had serious Concerns about some of the conduct that we have investigated.

We have been able to secure satisfactory outcomes, specifically in the case of Telstra, by its agreeing to our requests for it to modify its behaviour, eg by continuing to provide products or services which it was proposing to withdraw, and by not going ahead with a proposed price increase.

Nevertheless we are continuing to investigate allegations of anti-competitive conduct.

Although the Commission's powers are substantial, it should not be surprising that they have not yet been exercised to the full we deal in legislative prohibitions. The telecommunications-specific provisions relating to conduct—I am not discussing the access provisions now—do not fundamentally alter or add to the nature of the anti-competitive conduct prohibitions applying generally across Industry sectors. They are couched in similar terms to those in the longstanding Part IV of the Trade Practices Act.

In this respect, our regulatory framework less closely resembles that of the US, the UK or Canada than that of New Zealand, which it is well known has seen extensive litigation. Where we differ from New Zealand is in having an access regime, which has meant that access seekers do not have to go through the courts to settle access issues as they did in New Zealand.

The access regime is changing the competitive nature of the industry. It allows for new entrants to get access to essential services in order to provide new services often in competition with the access provider. Many anti-competitive issues are also access issues. Provision of access may resolve or minimise the effects of alleged anti-competitive conduct.

However, problems with conduct remain. If and when the Commission reaches the view that the anti-competitive conduct provisions of the Act have been contravened, we will not hesitate to test the law.

It is arguable that the Commission may indeed have a higher hurdle to jump in issuing a competition notice than if it were commencing proceedings in the ordinary way.

For example, where the Commission decides that it has concerns about a merger and that there is need for urgent action, it will generally write to the parties outlining its concern. If there is no resolution in terms of undertakings or a deferral of the proposal, the Commission will issue proceedings if it forms

the view there has been a breach of the law. Where the Commission sees a need for urgent action, it can seek interim relief even if it has not completed its investigation.

In telecommunications, the Commission can only issue a competition notice stating that a carrier has contravened, or is contravening, the Competition Rule—not that it reasonably believes there has been a contravention or some other lesser test. As the Commission has made clear in its information paper, ". . . the Commission will [not] necessarily wait until it has admissible evidence sufficient to convince the Federal Court of a contravention before issuing a notice. Rather, the Commission will make the decision to issue a notice after giving proper, genuine and realistic consideration to the merits of the case." Nevertheless, it is clear the Commission must act on substantial and probative material in forming a view that the competition rule has been breached

Moreover, the decision to issue a competition notice is an administrative decision subject to ADJR review. Our legal advice is that the Commission must have before it all the primary information it needs to form its view on whether there has been a contravention and that it must make available to Telstra or any other player with market power all the information that it may be relying on in reaching a decision to issue a notice.

When you are investigating complex matters with a number of industry complainants, this is not a recipe for rapid intervention. The Commission believes that competition notice investigations will normally be measured in terms of months rather than weeks.

In its investigations to date the Commission has also sometimes been slowed down by the difficulty in getting information to substantiate allegations. Complainants sometimes do not seem to realise that the Commission is unavoidably dependent on them to demonstrate factual matters such as delays in dealing with Telstra.

Moreover, many—indeed most—of the issues in telecommunications are inherently complex. Some, such as commercial churn, require the development within the industry of detailed arrangements.

It needs also to be understood that our regulatory approach to anti-competitive conduct in telecommunications, consistent with the rest of the Trade Practices Act, leaves decisions about conduct to the Federal Court. Only the Court can decide whether, on the facts, the Act has been contravened. Only the Court can impose a penalty or, by granting an injunction, order specified conduct to cease or order that someone do specified things.

While the Commission can issue a Competition Notice, it cannot itself direct anyone to act in any particular way, and certainly cannot itself impose a penalty.

This differs somewhat from the situation facing other regulators, eg what is proposed in regard to the Customer Service Guarantee. There it is proposed that the ACA be able to issue a direction to ensure that performance standards are met, with penalties of up to \$10 million for failure to comply. The ACCC has no similar power to issue directions in respect of conduct, although it does have powers in respect of tariff-filing and record-keeping.

Clearly the Parliament's intention has been that anti-competitive conduct in telecommunications be handled in a manner not substantially different from the way in which anti-competitive conduct is handled in other industries. The view has been that trade practices provisions go so directly to the heart of how businesses act in the marketplace that decisions to prevent certain sorts of conduct must only be made by the Court. In that respect, the ACCC enforces the law; it does not regulate conduct.

When it comes to access, however, the Commission does regulate.

As in the case of access, the Commission considers that the framework for dealing with anti-competitive conduct is generally working satisfactorily and as intended. In saying this, it needs to be understood that the framework is essentially a slightly modified form of that applying to industries generally. This has considerable strengths, but an ability for a

regulator to act swiftly and decisively to direct—rather than to initiate court proceedings is not amongst them.

It would, of course, be silly to measure the effectiveness of regulation by how many competition notices are issued. More meaningful may be the number of decisions relating to access. Here the Commission is, and has been, very active and the effects of these decision will, we expect, be felt over the next year, with positive benefits to the industry and the community.

Mr Shogren—I also have a few brief opening comments. The main points we make is that our role is, obviously, as a law enforcement agency and a regulator and not as a policy adviser. The important thing about that role is that we are administering the Trade Practices Act. We have certain powers under that act that we exercise, but people often say to us, ‘Why don’t you make so-and-so do this or stop them doing that?’ The simple point I make there is that we do not have any general powers to tell people to do things or to stop people doing things. We have particular powers under the act; we exercise those powers under the act.

The second point is that there are new parts to the Trade Practices Act, which came into effect from 1 July last year, dealing with anti-competitive conduct and regulating access. I think those are the things that we can usefully help the committee with by talking about our experience in regulating those new parts of the act. What we do in regulating those parts of the act applying to Telstra is that it makes no difference to us who owns Telstra. In that sense, selling the remaining government-owned portion of Telstra has no implications for the way in which we administer the act. Whether other people have a view about the need for changes to the act is for them. All I am saying is that, whatever the act, we apply it to all comers. I will leave it there.

Senator SCHACHT—At the hearing of this committee on this matter in Sydney last week a number of telecommunications carriers—other than Telstra—new carriers, and service providers gave evidence. All of them were unanimous—and we heard it today from Optus—that the present regulatory structure is not sufficient to allow effective competition against the market power of Telstra.

They all said in various ways, particularly last week, that they were very worried, if Telstra went in to full private ownership, that the influence of the government would be reduced and that is one last influence they can always call on to get better competition in one form or another. As inefficient as that may be, because it is an informal process, a political pressure process, as much as anything, they certainly made it clear that they were very concerned that the present regulatory structure, and its operation by the ACCC, is not strong enough. Have the telcos, the carriers or service providers made similar views formally to you?

Mr Shogren—We are broadly aware of what they have been saying to this committee and the sorts of submissions they have made to government. I do not think there would be much point in their making submissions to us about the need for legislative change because we have no powers in that and, as I said, we do not even advise the government.

They have certainly made their views known to us about how they think we are dealing with the powers we have got. We are certainly aware of dissatisfactions about the speed with which certain things happen. I cannot think of any specific examples of cases where they say, ‘You should be doing something differently from the way you are doing it, given the powers you have.’

Senator SCHACHT—Today Optus, and last week other carriers and providers, said that they would provide us with amendments to the legislation. It might be an idea for the secretariat to provide the ACCC with copies of those suggested legislative amendments that relate to the Trade Practices Act. We would like you to have a look at them and see whether, even on the technical side, they have got what they are describing, whether it is constitutionally valid, workable, et cetera. The pressure is significant that there should be amendments in the Trade Practices Act as part of this package of bills. They certainly will be lobbying very hard. Would you be able to respond quickly if you were provided with those draft amendments?

Mr Shogren—As long as I can make it clear about the manner in which I think we can respond. We can talk about how those things would affect the way we administer the act. I do not think it is for us to give any advice about whether they are constitutionally doable or anything like that. Indeed, I can respond to some of that now if that would save some time. We are basically aware of the sorts of proposals—

Senator SCHACHT—Yes, that might be useful.

Mr Shogren—I probably cannot list them all from A to Z, but let me talk about the ones that I am most aware of.

Senator SCHACHT—Let me help by listing by topic some suggestions. Optus wants an amendment to allow the ACCC to have discretion to publish cost data relating to bottleneck facilities. Do you have a response to that?

Mr Shogren—It seems that at the moment we do not have the power—certainly, not direct—to do that.

Senator SCHACHT—Would you find that a useful power to have to help you with administering competition policy overall?

Mr Shogren—I think, by and large, yes. I would have some small reservations about it. But it seems that is essentially what happens in the UK where BT costs of bottleneck facilities are published. It does not seem to have caused any harm to BT or to investment in that regime. I think it would give us the ability to get some broader scrutiny of things where it is useful to get experts asking questions about it.

Senator SCHACHT—It might be useful for the ACCC, if you are basically positive to that suggestion, with some minor qualifications—you have probably got more lawyers over there than we have here on this committee—to provide us with what you would think would be an acceptable legislative amendment to achieve that.

Mr Shogren—I do not think we could do that, Senator; I think the department would need to do that.

Senator SCHACHT—Is that the A-G's?

Mr Shogren—We are not into legislative drafting, basically. If they wanted to consult us about our expertise on how things would work in practice, that would be fine.

Senator SCHACHT—But you must have some expertise about the drafting of legislation—whether you can deal with it in a workable way?

Mr Shogren—That is what I am saying: they could consult us about whether things were workable. I do not think we can get into the legislative drafting.

Senator SCHACHT—The committee will provide you with a copy of these recommendations. Another one from Optus was:

A discretion to require separation between Telstra's network arm and retail operations in relation to matters such as use of customer information, access to electronic systems and interconnector arrangements. This will allow the ACCC to achieve more equivalence between regulation of all utility sectors.

Mr Shogren—Again, I think it is true that the sorts of things that they are proposing there are the sorts of things that are included in codes, for example, in the gas area. It is not totally clear that we do not have some of these powers in our power to make record keeping rules. I think what Optus is proposing would make the position clearer.

As I understood it, they were also adding another feature, and that was a suggestion that we be able to, as it were, direct the behaviour within Telstra of how the different areas

communicate with each other. So, if you had ring fencing between, say, wholesale and retail businesses, it would not just be accounting ring fencing; it would include how those areas interacted with each other. I can see the arguments for that.

Senator SCHACHT—On the issue of interconnect itself, you have an investigation under way at the moment. Is that right?

Mr Shogren—Yes, we have several under way. The one that is just coming to a conclusion is to do with data services, and the one that is just getting under way is to do with local call service.

Senator SCHACHT—So the data service investigation is coming to a conclusion. You have made a draft determination, haven't you?

Mr Shogren—We released two draft determinations last week, and there is another one coming.

Senator SCHACHT—On the local loop itself, you have not made a draft determination?

Mr Shogren—That is right.

Senator SCHACHT—When would you expect that to be available?

Mr Shogren—The schedule is something like this: we have put out an issues paper; we have asked for submissions, and they are due back towards the end of this month; a public hearing is planned for around 9 June; and I would expect a draft view to be out in early July, probably to be finalised later in July.

Senator SCHACHT—Some are complaining that the process has been slow in that area, and some of the competitors are complaining that as every week goes by Telstra's advantage is continuing in these areas. But in the end you have the power to make a determination on the interconnect?

Mr Shogren—Can I just comment on the slowness. The processes are not quick; there is no doubt about that. You have to have an issues paper, you have to have it out there for a month and you have to get submissions and so on. But I would say that the order in which we have been doing these things—and you have to do them in an order, because you cannot do them all at once—has basically accorded with the priorities that we got from industry early on.

For example, the reason we did data before the local loop was because we consulted with industry and that was the way they wanted it done. We were not held up, but we also did some things in mobile telephony earlier because it was necessary to get them in place before the spectrum auction. That is basically an explanation of why the sequence has been as it is.

Senator SCHACHT—In the determination you are looking at the issue of the interconnects for the local loop. Other competitors suggest—and some of them have given evidence here—that you cannot get to the bottom of a decent figure of what the interconnect should be until you can very effectively unbundle Telstra's cost structure by separating out the various elements such as the overheads, the value added that is really going on, et cetera, and getting back to the basic price of just providing that telephony services as part of the interconnect. Are you finding it difficult in any way in your role in looking at the interconnect to get appropriate information from Telstra that means you will have a process that you are confident will reach a figure that is actual and based on the unbundling, the separation, the transparency of Telstra's costing?

Mr Shogren—We are going through a process now where we are assessing an undertaking from Telstra. It is not an undertaking relating to the local loop but it will give us a lot of information about the cost of the local loop. It is a very big project. Telstra, if anything, has inundated us with information. We have to work our way through that.

Senator SCHACHT—That is their other technique, of course, isn't it?

Mr Shogren—There is a lot of information. We are not quite far enough down the track for me to give you a considered view about whether it is going to work as cooperatively as we would like. But we have other things going on at the same time so that we are not totally reliant on that one process. We are also doing a bottom up modelling process of our own.

Senator SCHACHT—I make the comment that in Telstra it is either a famine or a feast: you get no information and then, ultimately, after a lot of head-banging and so on, you then have a flood of 10 million pieces of paper—which is another way of giving you nothing, because it is incomprehensible. We have had that experience elsewhere in other work of this committee. But you are happy with the information Telstra is disclosing: it is meaningful information, is it?

Mr Shogren—So far, yes. As I said earlier, it probably would be helpful if that information could be made public so that we could get some easier external scrutiny of it.

Senator SCHACHT—Are you prevented from making it public?

Mr Shogren—We do not seem to have any power to make it public. If they tell us it is commercial-in-confidence, we have to respect that.

Senator SCHACHT—You have to respect their assertion?

Mr Shogren—We would not necessarily accept it as an assertion, but it would be fairly clear that it can be seen as commercial-in-confidence. On the other hand, there is the argument that, if it is a genuine bottleneck service that you are talking about, by definition they cannot really be competed against in that service anyway. I guess that comes back to the question of where the real natural monopolies are, if anywhere, and it is perhaps not straightforward. But, as I said, that degree of publication takes place in the UK without any particular difficulty.

Senator SCHACHT—That would require some amendment to your legislation, to give you—

Mr Shogren—We have not assessed this in any detail at all, but that is my understanding.

Senator SCHACHT—Could you take it on notice and bring to our attention which parts of the act would need to be amended to give you greater independence on making public the information provided by carriers?

Mr Shogren—Again, I would want to deal with the department—

Senator SCHACHT—DoCA?

Mr Shogren—DoCA, yes—in thinking that through and I would certainly tell them what part of the process—

Senator SCHACHT—I do not mind you dealing with DoCA, but you can ask DoCA—

CHAIR—Senator Schacht, let Mr Shogren answer the question.

Mr Shogren—If we are talking about legislative amendments, we are talking about the development of policy. It has to be their role to do that. We can advise them of how our

administration of the act affects that or of how the legislative amendment would affect our administration of the act.

Senator SCHACHT—I am trying to short-circuit this a bit, because we could ask DOCA to provide us with that advice and they would have to ring you. If you want to provide it to DoCA, they can forward it on to us. That would be most useful. When the bill comes up for debate, these are issues on which the overwhelming thrust from the people who have given evidence is that they may be agnostic or they may be unexcited either way about privatisation but they are very excited about regulation.

They are saying that, unless you get the regulation changes, in letting Telstra become privatised, they will be even in a worse position because there will be no government influence over the administration and outcome of Telstra. So we are asking to look at what other amendments we might make to the legislative package to assuage some of their fears—which is a separate issue from the principle of selling it or not; but, as a competition issue, this may be the time to address it. They are certainly asking for us to address it very strongly. You are the regulator and you have the experience every day with this. If you can provide that comment to DoCA and ask them to forward it on to us rapidly, that would be most useful.

Mr Shogren—Yes. My point is a simple one: we are the administrator of the act but we are not the people who developed the act in the first place.

Senator SCHACHT—Yes, but everybody who administers an act has got a better day-to-day close working relationship with what they discover are the efficiencies and deficiencies of the act.

Mr Shogren—I would expect DoCA to talk to us about that.

Senator SCHACHT—Yes, but you are administering the act yourself about regulation. You have a standing view about carrying out the philosophy of competition: that is what the ACCC is about. Because of your broader experience, you may well be able to identify an amendment in this area which will improve our ability to provide a more competitive market. You have got better experience at that than all the rest of us put together, other than all those—

Mr Shogren—I have already indicated that it would help if we had the ability to make certain information public.

Senator SCHACHT—Okay. The only thing is that we do not have access to the same resources as you do about drafting. You could actually suggest via DoCA what you think would be a useful amendment in an area. You can still be agnostic about whether you support it or not: this is a committee recommendation. I can tell you what will happen on the floor of the Senate: in the committee stage, people will chance their arm on some of these amendments. Unless they are given proper consideration, you actually can make a mess of it. I suspect that the government and opposition and other parties might well reach unanimous agreement on some of these amendments, if there has been some consideration given.

I have a question on one other area, Mr Shogren, the general administration. How many people do you now have in the ACCC dealing with regulatory matters in telecommunications?

Mr Shogren—It is about 30, give or take a couple.

Senator SCHACHT—Is that about the same number that Austel had when it was operating separately?

Mr Shogren—I could not tell you how many it had doing the same functions—that is, dealing with competition and access matters. I think we have got more than Austel had doing that. Of course, they had more people overall, but they were doing a lot of other things as well.

Senator SCHACHT—But, in this competition area, at the moment, do you believe you have enough staff? Everyone always likes more resources but, generally, are those 30 staff able to handle in a reasonably expeditious way, the range of issues coming in?

Mr Shogren—Yes. I would say that we are stretched—but everybody says that and wants more resources. We do have some particular difficulties: because of the technical nature of things, for example, it is difficult for us to undertake the large consultancies that we would like to do sometimes to bring in expertise from outside. But I would not say that our level of resources is damaging our ability to do what we ought to be doing.

Senator SCHACHT—It has now been 10 or 11 months since the new regulatory regime was in place: when do you think it would be appropriate to conduct—irrespective of the particular argument we have at the moment—a review of the overall regulatory structure for telecommunications, so that people will be able to make a reasonable assessment that one thing has worked well but that another hasn't? Are we still a year or so away from that?

Mr Shogren—There is a requirement actually in the legislation for a review of the anti-competitive conduct provisions after three years, and—

Senator SCHACHT—Three years? Okay, let me go back—

Mr Shogren—You would start that before the end of the three years. In terms of a fundamental review, I would not suggest anything earlier than that. Obviously, you have to be looking at things all the time as you go along. I think there are a few milestones. If you accept that it is the access area that is setting the long-term structure and competitive environment in the industry, then it is those declaration decisions we make which are the key ones. I think we will be through the first round of those when we finish the local call service in July.

But that declaration process only starts the process of people getting terms and conditions of access to all those services. That is going to take longer. There are three ways they can do that. They can negotiate it; we can get an undertaking from an access provider and assess it; or somebody can ask for an arbitration. It is notable that we do not have any requests for arbitrations before us, 10 months into the system, even though we have got a whole list of declared services because we deemed them right from the beginning.

Senator SCHACHT—No. I think that is a reasonable and fair comment. I notice that through the duopoly period until 1997, despite argument on the interconnect fee, Optus never chose to go to the arbitrator—that was you and then Austel—to get a determination. In the end, they always reached, after a lot of argy-bargy, a commercial arrangement among themselves.

Mr Shogren—There is an argument that having the arbitration power there—

Senator SCHACHT—Forces them.

Mr Shogren—helps it. We have had one arbitration notified. The people came into the room on their first hearing and said, 'If you give us another couple of hours, we think we can reach an agreement.' They came back and said, 'We have done that and we withdraw the notification of the dispute.' That is the only one we have had. There is a risk to both of them of our doing it.

Senator SCHACHT—Yes, of course. They do not know which one is going to lose.

Mr Shogren—Yes.

Senator SCHACHT—I understand. I think that if Optus in particular had concentrated more on the interconnect fee several years ago, even going for the arbitration rather than rolling out cable, they would probably have got a better result for a lot less of an investment.

Senator TIERNEY—Do you think there was an unrealistic expectation of how quickly competition would take effect following deregulation in July last year?

Mr Shogren—It depends on whose expectations you are talking about.

Senator TIERNEY—Players in the marketplace.

Mr Shogren—If I say ‘unrealistic’, then they have the very valid comeback, ‘We’re the ones out here doing business and we’re the ones that need the interconnection. Don’t you tell us that it has been quick enough. We are telling you it has been too slow.’ We have to listen to that.

You can make comparisons with other countries. I think that, 10 months down the track from open competition, we are probably further than any other country was by a mile, compared with when they opened up to competition. The processes are deliberative ones; they are considered ones. They are not by any means automatic. They take some time. But I think we are going through them at a pretty reasonable rate.

Senator TIERNEY—I assume that, from the introduction of the new regime, you would have had some backlog build up in the matters you have to handle in relation to telecommunications. Is that so and, if so, when would you roughly expect to clear such a backlog?

Mr Shogren—In one way we were able to avoid a backlog because there were transition provisions that enabled us to deem services. We got some action from July last year because a whole lot of people did have a right to interconnection straight away. We got those prices coming down in long distance, domestic and international services.

Then we have had something of a hiatus because the new processes have to be gone through for declaration of new services. For example, that is the case in local call service. When you introduce the new regime, people will have this list of things they want to get declared. We have to work through those. There is no way except to do it sequentially. As I said, we will be through that basic first list of things by about the end of July.

Senator TIERNEY—Across the telecommunications market, the degree of competition is obviously very uneven. On the mobile phone cellular network, there are roughly one-third market shares with the three main players because the local call link is very different. Do you have a view on how we might be able to improve competition on the local call loop? It is early days yet. We are only a little time into it. What do you think could be done?

Mr Shogren—That is the \$64 question basically. As Senator Schacht said, people are seeking access to Telstra’s network. The key to it is that there are different ways of getting access. Presently, they have access at trunk exchanges a fair way up the Telstra network.

With this local call inquiry we are talking about three things: one is local call resale—set that aside for the moment. The second is access at the local exchange instead of at a trunk exchange. The third is access to the lines from the customer’s premises to the exchange. That is what some people are saying they want. If you give them that last thing you are really fundamentally changing the nature of the telecommunications market. You are saying that you do not have to duplicate the lines to the house to be able to provide a local call service to the house.

There is another way that you might be able to do that and that is with wireless local loop where you do not have to have any lines at all. If we were to give access to another carrier

to that twisted copper pair between the Telstra local exchange and a customer's premises, then they would come in and be providing a genuinely competing service. When you picked up the phone, the dial tone you got would not be a Telstra dial tone, it would be a dial tone provided by another carrier.

The important thing is that it may be possible to do that without duplicating a whole lot of facilities—that is, without everybody having to roll out a separate cable to all those premises, but using the wire that is there. That is obviously a really key issue. We will be looking at the tests we have to use, which is whether it promotes long-term interests of end users and, in particular, how you get the balance right of promoting competition and getting efficient investment.

Senator SCHACHT—A regular appearer before this committee in its various forms on telecommunications has been Mr Stewart Fist. He consistently argues that, if you really want the best competition, it is structural separation. He argues that the basic network should be run by a telecom that has a monopoly but is not in retail or wholesale, et cetera. I suspect it may be a bit late to revisit that structural issue. The other issue he raises is that the customer own the copper pair from the phone back to the first exchange. By doing that, you create real competition, and not just between the odd carrier around the place.

Within the discussion papers you have prepared, have you had a chance to look at that view of Mr Fist? It is an intriguing proposition. A lot of us are not sure whether we are too far gone on another model, but he insists we are not. He said that gives the customer the control and that is when you get rip-roaring competition which will drive prices down and services up.

Mr Shogren—That is exactly the issue of unbundling the local loop. Talking about the twisted copper pair, it is giving the customer the right to assign it to a different carrier. You have to be a bit careful because you do not want to confiscate that from Telstra. That raises what are the real costs of having that twisted copper pair there through which you can push all sorts of services, not only Telstra services.

Senator SCHACHT—Is that view something that the ACCC is having a look at?

Mr Shogren—Yes, that is going to be a central issue in that.

Senator TIERNEY—The central focus of this inquiry is obviously on the full privatisation of Telstra. But a lot of the evidence we have received, and a lot of the issues that people are talking about, are more related to the telecommunications legislation last year and things like universal service provision. The regulatory framework generally is basically what people have been talking about. Does the ACCC believe it has any significant gaps in its powers to deal with these sorts of things?

Mr Shogren—No. We think it is basically working reasonably well and as intended. I have already made a couple of comments on proposals that have been put. I would see those as pretty much fine tuning. We are not seeking any fundamental changes. We would like to have people understand the nature of the regime and some important facts about it, such as that it leaves final decisions to the courts. As I said earlier, it does not give us powers to tell people what to do and what not to do. That is consistent with the rest of the Trade Practices Act. Our powers here are similar to what they are in the other parts of the act.

They are quite different from the powers of, say, the Australian Communications Authority in respect of the customer service guarantee where it can set a standard and then demand compliance with the standard. We do not have a power like that in this area. But, that is fine. That is the way the system was set up last year.

Senator TIERNEY—Given the bodies we have set up and the laws and regulations we have brought in, how do you think we are travelling, compared with our international competitors, in telecommunications and the area of regulation consumer protection in allowing competition?

Mr Shogren—After 10 months, I think that we are travelling pretty well compared with other jurisdictions. For example, the US introduced their new Telecommunications Act at the beginning of 1996, and the proportion of local calls that are still provided by the incumbent Bell companies there would be about 98 or 90 per cent. I think that proves that it is not an easy or rapid thing to get competition into local telephony and we should not be surprised that we have not got it here after 10 months. But we would be disappointed if we did not get it in a reasonable time from now.

Senator TIERNEY—Particularly when you have had a monopoly for up to 100 years. Thank you very much.

CHAIR—Senator Margetts, do you have any questions?

Senator MARGETTS—Yes, I do, thank you. I just wanted to know whether the agency believe they have adequate resources for doing the job of watchdog for competition within telcos?

Mr Shogren—I answered a similar question from Senator Schacht on that. We believe that we do basically have enough. We would always like more. The area where we feel that we are a bit stretched is in being able to bring in outside expertise through consultancies. But, essentially, we are not complaining more than public service organisations normally complain about the resources we have got.

Senator MARGETTS—Right. In relation to the example that was given to us yesterday from representatives from Western Australia about the fact that they believe a mobile net could be set up in a remote area in Western Australia for around \$60,000 and they said that Telstra was charging around \$300,000, is that any area that you would like to get involved with? Do you have any comment on that?

Mr Shogren—We are involved in the following way: we have developed a facilities access code that is particularly relevant to mobile telephony because it sets the terms on which a carrier has to provide access to its mobile towers and sites. That means that, if another organisation wants to come in and provide a mobile service, they do not necessarily have to set up all their own infrastructure. They actually have rights to use the infrastructure that is already there. They can just add to it to provide their own services. They cannot do that until they purchase some spectrum, and that is what is going on at the moment with the spectrum option. So we do have an interest in that. We do not have any kind of general pro-competitive powers to try to get mobile telephony into rural areas. We have taken an interest in the rules of the spectrum option to try to make sure that, for example, one of the present incumbents cannot capture it all, and they cannot. We have also got this work we are doing on facility sharing.

Senator MARGETTS—Can I just clarify that? Are you saying that the prices would obviously be different depending on whether they could use infrastructure that was there already? I think that they were talking about setting up mobile networks in remote mine sites, and things like that. Does your comment still apply to that?

Mr Shogren—I guess I was making two points. Firstly, you would expect prices to come down, perhaps, if you got some more competition in. Secondly, it is easier for new entrants to come in because of this facilities access code.

Senator MARGETTS—Thank you very much.

CHAIR—Thank you, Senator Margetts. I would like to thank Mr Shogren and Mr Cameron from the ACCC for their presence and for the statement—

Senator SCHACHT—Now that we have got the statement from Mr Shogren and have the chance to read it, if there are any questions that we might put on notice as a result, could we lodge them with the committee and get back to Mr Shogren the next day?

CHAIR—Not really the next day because that is Thursday. We want the answers back by lunchtime Friday.

Senator SCHACHT—At the end of today—

CHAIR—Pass them to the office by 10 o'clock tomorrow morning and we will get them to you if there are any questions. We realise that it will be short notice but, if we can just get a brief reply, we would appreciate that. Senator Lundy has one little question, whatever that means.

Senator LUNDY—I am interested in the nature of discussions between the ACCC and the Office of Asset Sales and Information Technology Outsourcing in relation to telecommunications regulations and, also, could you provide the committee with details of any consultations you have had with DoCA, or the department of finance, in relation to regulation in the context of their privatisation agenda?

Mr Shogren—I am actually not aware of anything with the Office of Asset Sales, but I guess we had better take that on notice.

Senator LUNDY—And DoCA?

Mr Shogren—With DoCA, there have been discussions I know at staff level, basically about things like the Optus proposals for ring fencing. I do not think that there has been anything more formalised than that.

CHAIR—Thank you very much.

[3.07 p.m.]

SANSOM, Mr Graham, Chief Executive Officer, Australian Local Government Association, 8 Geils Court, Deakin, Australian Capital Territory 2600

STEWART, Ms Kristin Louise, Policy Officer, Australian Local Government Association, 8 Geils Court, Deakin, Australian Capital Territory 2600

BASTIAN, Mr Robert, Chief Executive Officer, Council of Small Business Organisations of Australia, PO Box E445, Kingston, Australian Capital Territory 2604

MITCHELL, Mr Vincent, Consultant, Council of Small Business Organisations of Australia, National Press Club of Australia, 16 National Circuit, Barton, Australian Capital Territory 2600

CHAIR—I welcome to the table representatives from the Australian Local Government Association and the Council of Small Business Organisations of Australia. The committee has before it COSBOA's submission No. 78 and the Australian Local Government Association submission No. 27 which it has authorised to be published.

You need to speak up. I can just hear you, but the acoustics in this room, despite the fact that they have got these super duper things, are not very good at this end. We have written and complained about it but nothing seems to happen. They came and told me last time that one of the amplifiers had blown out. Do you wish to make any alterations to your submission?

Mr Sansom—There are no alterations, as such, but I do have a few comments.

CHAIR—COSBOA?

Mr Bastian—On behalf of the Council of Small Business Organisations, yes, I have one quite significant change. Telstra has announced recently, within days, their decision to free or make portable their local telephone numbers, which was one of the major concerns in our submission. Naturally, we would like to read into the public record our congratulations for their so doing.

Senator SCHACHT—That was not Telstra's decision; that was the decision of the legislation. If Telstra had their way, that would never have happened.

Mr Bastian—It caught me by surprise and I can only say that the nature of this public statement would lead one to believe—

Senator SCHACHT—Yes. I saw that today myself, Mr Bastian, and I nearly fell off my chair laughing at the cynicism of the statement that this is a gift from Telstra to everybody else in Australia when, in fact, it was a decision of the regulatory process of last year.

CHAIR—Senator Schacht, we are running against time. Thank you. I appreciate your coming together, but we really need to try to fit people in. Mr Bastian, is there anything additional that you want to say that is not in the submission?

Mr Bastian—No. I am happy to speak to the submission and answer questions. A submission has been tabled and I have no addition to make.

CHAIR—You have a piece of paper there. Is that your submission?

Mr Bastian—Yes, that is my submission.

CHAIR—I thought that you may have something in addition that you would like to have incorporated. Mr Sansom?

Mr Sansom—Yes, I do have some extra points to make, if I may.

CHAIR—If they are additional to the submission.

Mr Sansom—Yes, they are additional to the submission.

CHAIR—As succinctly as you can, please.

Mr Sansom—I will be extremely succinct. I wanted to make a few additional observations. Firstly, like many organisations, due to the haste with which this is being handled, we have had a lack of time to adequately consult all our membership. We would have hoped to give the committee a definitive view as to whether our membership feels that it is appropriate to go down the road of selling the rest of Telstra. We have been unable to finalise that view at this stage. However, there are a few points that I wish to make.

Firstly, we did express in our submission at the time of the sale of one-third of Telstra a very significant concern about the loss of public control over essential infrastructure. We argued at that time that it would be useful to look at separating the ownership of the infrastructure from the service delivery function. We remain of the view that there are serious risks attaching to disposing of such crucial and strategic public infrastructure. We are not in the position, on the available information at this stage, to know whether, in moving from a one-third sale to a full sale, that it is possible to unscramble the infrastructure and the service provision mix, but we certainly believe that should be looked at.

I can also say that from the discussions we have been able to have within our membership, we are quite clear that a full sale of Telstra at this time would not be well received by many—

probably most—of our rural and regional member councils. The view has been very strongly expressed to us that much more needs to be done to bring service and infrastructure standards in regional and rural Australia up to acceptable standards. There are serious doubts as to the extent to which that will proceed with a fully privatised Telstra, notwithstanding the various conditions and safeguards which the legislation foreshadows.

It would, perhaps, be more appropriate to look at the costs and benefits of some intermediate steps, such as moving to selling 49 per cent, until such time as the problems with infrastructure backlogs and deficient service delivery to rural and regional Australia have been addressed. I think that those are the main points.

The other one I would want to add, which flows from those remarks, is that there appears to be a continuing lack of adequate and comprehensive benchmarks as to what standards of infrastructure and service delivery are appropriate. There are mechanisms to set standards and—theoretically, at least—to enforce standards, but we do not really have an adequate set of benchmarks as to what the appropriate standards might be. We feel that that is a very significant gap.

The other point that I would just want to amplify from our submission is our comment on the proposed social bonus. In our view that needs to be articulated much more fully before any sale proceeds. The appropriate model would be the level of specificity that was put in relation to the Natural Heritage Trust at the time of the one-third sale. We will be looking for at least that level of detail and commitment. In particular, we would be looking for a major commitment to regional development support to address both the infrastructure and service delivery issues that we have been talking about and the potential for employment loss in rural and regional Australia associated with the proposed sale.

Senator SCHACHT—Firstly, Mr Sansom, although you may have had limited time to prepare it, we wanted to have a lengthier period of time for consideration in calling for submissions and hearings, et cetera, but that was not the government's wish in the Senate. Nevertheless, I want to say that I think that in your submission you have covered most of the points of community concern which obviously reflects the membership of 700 or 800 councils in Australia.

Mr Sansom—A bit over 700 these days.

Senator SCHACHT—It is going down by amalgamation—700. I have to say that many of the areas of concern you raised can be dealt with only by maintaining Telstra in public ownership. Regulatory matters will not cover the areas of concern. I note on page 4 that, if Telstra is to be fully privatised, you certainly strongly call for the retention of the power of the minister to direct, even if it is fully privatised. Is that correct?

Mr Sansom—The submission does not exactly call for it, but we certainly make it clear that that has been an important back-up—as we say—form of insurance for the community. We are not absolutely clear as to precisely how that power might be maintained—and, of course, it has been used very sparingly in recent years. But, certainly, we are of the view that the other arrangements proposed for ensuring that appropriate standards are set and maintained have not in the past proved to be particularly effective. I think that we went through all that in the Telecommunications Act discussions. Something at least akin to the power to direct seems to us to be the only reasonable way that you are going to be able to give the necessary guarantees.

Senator SCHACHT—It would be the only way that you could achieve what you have got in your recommendation F about the impact concerning the issue of employment in the

expansion of Telstra's activities in non-metropolitan areas, and for increased employment, et cetera, through investment in adequate telecommunication's infrastructure in the region. I cannot see how that could be achieved in a fully privatised Telstra, unless there was the minister's, or the government's power, to influence those decisions, if only by necessary direction. Otherwise Telstra, driven only by a profit motive, will just say that it is cheaper to do it in the city.

Mr Sansom—The other possibility is the one that I just mentioned, the social bonus, which is articulated and guaranteed in such a way that is very substantial. The lessons of the RTIF show us that we are talking huge sums of money, compared to the \$250 million that has gone into it to date. We are talking about a very substantial program of infrastructure and service upgrading undertaken with the proceeds.

Senator SCHACHT—I note that you mention the RTIF in your submission and the \$250 million program over five years. From the figures I got at estimates recently, I think that Telstra this financial year will spend \$800 million on capital works and capital infrastructure alone in non-metropolitan Australia. That is one year. In five years it would be \$4 billion. It is how they spend the \$4 billion in Australia to achieve equity of access for all Australians that is the real \$64 question. Again, I cannot see how you can achieve a desirable outcome in this areas in public policy terms unless the government, through the minister, has some power of direction and influence over the board of a fully privatised Telstra.

Mr Bastian—I would like to come in here. I feel as though I am hanging on the side of this conversation. It is because of the peculiar arrangement of the two separate—

Senator SCHACHT—We will get to you, Mr Bastian.

CHAIR—It is not peculiar. We quite often do it. Sometimes we have to share the limelight. We have to do it this side too.

Mr Bastian—It is new to me. I would like to emphasise that we support much of what Mr Sansom has said. We have reservations about passing to the private sector large and powerful structures. We have some reservations about the whole post-Hilmer process. There has been a lot of pain for small firms in the control mechanisms that go with that process. In fact, three-quarters of what Mr Sansom has said are the central issues of our presentation as well.

We have some particular concerns about the commitment to ensure that the standard that was given at privatisation, initially, is maintained. Of course, technological advance over that standard seems to come with a new price. We are also deeply concerned about the fact that our research, and, indeed, Telstra's own research, reveals that, for small businesses, the use of the telephone is identical to that of a residential consumer. Yet the act currently contains provisions for residential consumers that do not apply to small firms. In particular, the use of timed or untimed local data transfer.

On the basis of the research that Telstra has conducted, which shows that the usage patterns are identical but that the price is different for the same product, COSBOA simply does not understand why small businesses pay a higher price or are being threatened with having to pay a higher price than residential users. That just seems absolutely nuts to us.

We have sought to emphasise the fact that Telstra made 37 per cent of its profits from small business lines which were only 32 per cent of its lines. We would ask that, in the process of transferring it to privatisation—if that is to be—the proportion of Telstra's profits from its various client bases be analysed and regulatory measures be put in place to ensure that the load is shared properly within Telstra's client bases. That is a very important point to us.

The second half of the same thing is that, as e-commerce, which is the flavour of the month at the moment, becomes far more important to both commerce and to the community, access to those facilities be maintained at the lowest possible rate. For those two reasons, we ask that protection from timed local data calls, be extended to small business—in fact, quite frankly, the business, period.

CHAIR—Thank you.

Senator TIERNEY—Mr Sansom, on page 1 of your submission you say that the bill requires a guarantee of enforcement of the universal service obligation—that is, the bill for the full privatisation of Telstra. Why are you putting that point when it is already covered by the Telecommunications Act?

Mr Sansom—I think the point there is that, as I indicated earlier, our experience suggests that the current provisions of the Telecommunications Act fall short of what might be required to achieve the kinds of outcomes we would hope to see. In the same way that this bill already makes a raft of amendments to the Telecommunications Act, it would be appropriate to look at how that might be strengthened.

I made the point a moment ago that, for example, we lack of series of adequate benchmarks. There seems to be an assumption underlying the bill that the current safeguards and service requirements are sufficient. We need to step back—I think this flows from what Rob Bastian was just saying—and ask ourselves whether the current situation is adequate, and, in our view, it almost certainly is not, especially in rural and regional areas. We then need to set some benchmarks for how that is to be improved. It is not just a question of maintaining the status quo. There is a need to improve on the current situation if we are to achieve appropriate outcomes.

Senator TIERNEY—Surely you are suggesting amendments to the Telecommunications Act, aren't you, not the bill that we are considering in this inquiry?

Mr Sansom—The bill can amend the Telecommunications Act and does so. That is the point we are making.

Senator SCHACHT—It does amend it.

CHAIR—Mr Bastian, you said I think that 37 per cent of Telstra's profits come from 32 per cent of lines from small business. Did the research indicate whether the business lines had a greater flow of transmission of telephone and data than domestic telephone lines?

Mr Bastian—The research was conducted at a time when Telstra was claiming it could not differentiate between data and voice. That has always surprised me, because my ears get blown off whenever I pick up a fax. That was the position Telstra took.

CHAIR—One would expect a greater flow across the 37 per cent of the lines owned by small business than the flow, of either data or voice, across the balance of domestic telephone. Do you see what I am saying? The usage of small business is higher than the 37 per cent.

Mr Bastian—No.

CHAIR—Are you saying it is the same? Are telephone bills about the same?

Mr Bastian—No, I am saying that paradoxically it was actually less, in the research we did in South Australia. This revealed something quite surprising to Telstra. On our survey, which Telstra funded, 44 per cent of the telecommunications expense of small firms in South Australia was the rental alone. In other words, a high percentage of their phone expenses were simply for the rental.

CHAIR—That did not answer the question I am asking.

Mr Bastian—That was a higher proportion than for the residential users in that area.

CHAIR—So are you saying that in that area residential users use the telephone more often than businesses?

Mr Bastian—Yes.

CHAIR—Many small businesses do not have adolescent children. You mentioned timed local data calls. Is it your concern that Telstra will introduce timed data calls because a flat charge does not cover its costs on a data call?

Mr Bastian—We are very concerned about that and we have always been concerned about that issue. Whilst Telstra is in the public ownership, we are able to basically exert pressure on the government. We have done so on several occasions and solicited reassurance that this would not occur, even from Frank Blount saying he is not brain dead and would not take it on.

About three weeks ago, in articulating the service standards, the minister for the first time separated local call data and local call voice, and extended local call data on an untimed basis to the residential user but not to the business user, holding this slight doubt out there in the business marketplace as to whether small businesses particularly would receive that protection. Always we see that there seems to be a reluctance to commit in the act a protection to the small firm about the use of data.

Mr Sansom—I might add that local government shares that concern.

Mr Bastian—This is in the context of a government pushing very strongly the incredible impact that e-commerce, and particularly the Internet, is going to have on all businesses and coining the phrase, 'the tyranny of distance is dead', at the e-commerce thing the other day. It is even selling to regional Australia people that you can be connected to the Internet all day for a 25c call.

We are concerned not only with equity with the residential consumer but with the reality that we are looking at a world which is going to be different in three years time to what it is now. I do not want that in the private sector. It is just too tasty for them. It has to be done now before there is any thought of transferring it to the private sector zone.

Senator SCHACHT—Are you recommending a legislative change to the act to make it absolutely clear-cut that business data cannot be charged a timed call?

Mr Bastian—I am recommending that three things occur. First, that we re-examine the data that we brought out several years back because it is dated. If, on the basis of that data, small business is still the cash cow that it was identified as then, we take steps within the legislation to ensure that is not the case.

The reason for that is that currently legislation protects the residential end of it. The big end of town can make a bulk buy and get a good deal. The little fellow sits in the middle and is never protected and cannot protect himself. We would argue that, as the whole process rolls forward, that situation will not be removed. It will probably be accentuated and it needs to be resolved before this facility goes into the private sector.

Senator SCHACHT—That means an amendment to the legislation.

Mr Bastian—Absolutely.

CHAIR—If that regulation was there, would you be as concerned about the ownership? Is your concern about regulation rather than ownership?

Mr Bastian—It is true that I see this as an example of our concern about passing things out to the private sector.

CHAIR—I would have thought that, coming from small business, you would have been fairly pro-private sector.

Mr Bastian—On the contrary. You have just witnessed the whole Reid report slant, trade practices argument. Small business is extremely concerned about the power of large corporations. It wants it regulated and controlled. There is no question about that in my mind.

CHAIR—That is not about who owns it. That is about regulation or control, isn't it?

Mr Bastian—Correct.

Senator TIERNEY—Mr Sansom, on page 3 of your submission, you say that less is being invested to meet the needs of rural and regional areas than metropolitan areas. Can you give us any figures on that investment in regional and metropolitan areas over the last five years?

Mr Sansom—We do not have those figures.

Senator TIERNEY—What are you basing your statement on?

Mr Sansom—I think the point is well made by the fact that the government thought it desirable to have a \$250 million regional telecommunications infrastructure fund. The purpose of that exercise was to address service and infrastructure deficiencies in rural and regional areas.

Senator SCHACHT—No, the purpose was to buy the votes and support of two independent senators. It was successful.

Senator TIERNEY—We will note your cynical view of all this, Senator Schacht. Surely, given the disadvantages that regional areas have in terms of telecommunications—regardless of the ownership—you would agree that that sort of disadvantage existed under previous monopoly positions. Surely you would welcome the addition of that sort of funding to give a boost to regional Australia.

Mr Sansom—We have strongly welcomed the addition of the funding. The point we are making is that program has revealed, through the submissions made to it for funding and the various works and initiatives carried out, that there is this very considerable backlog. Picking up again the points that have just been made by small business, simply talking in terms of things such as standard telephone services is no longer adequate if we are going to make a concerted effort at improving the situation of regional Australia and underpinning the economic growth in regional Australia. Our submission is arguing the need to set a much higher benchmark of infrastructure and service delivery in non-metropolitan areas.

Senator TIERNEY—You mention that there is a considerable backlog. Do you think that would have anything to do with telecommunications being, for almost 100 years, under monopoly control and not being particularly responsive to customer needs?

Mr Sansom—I am not in a position to answer that.

Senator TIERNEY—It is a simple proposition though, given the observation of what has happened over recent decades.

Mr Sansom—It is a simple proposition, but I think an awful lot of evidence and analysis would have to be assembled to prove it one way or the other. The issue here though is that privatising Telstra is not going to fundamentally change the position. We are going to have an extremely dominant player. The ownership will have changed. The dominance of the position of that player will not change. All the accumulated public infrastructure—adequate

or inadequate—will remain in one set of hands. So the fundamentals of the service delivery climate, as far as we can tell, will not be altered by the sale process—which, in our view, highlights the need to make sure that appropriate benchmarks are set and that continuing and enhanced efforts are made to address deficiencies.

Senator TIERNEY—I will come back to that point in a minute. Back on your original point that considerable evidence will have to be assembled to prove the deficiency in services under the monopoly position, we have had a fair bit of evidence of that. You are probably aware of the 1993 reports on southern New South Wales and western New South Wales and the standards of service there. An internal Telstra document leaked at the time showed appalling standards under the previous arrangement. I am surprised that you are not a bit more positive about the current regime. Not only is there more competition but, over the last few years with the new authorities set up and new regulations, I would have thought there is a better outlook than existed under the old monopoly position.

Mr Sansom—The evidence available to us suggests that in some metropolitan areas the introduction of Optus as a second player, and other smaller companies as well, has made a difference. We cannot see that the benefits of that have extended beyond the major metropolitan areas. As you would be aware, when things got difficult in the pay TV business, Optus—as did Telstra—curtailed their roll-outs even in major metropolitan areas. I do not see that, whilst there have been some pricing advantages and some service improvements to major customers and in major metropolitan areas, there has been any significant shift and improvement in service delivery in rural and regional Australia. Whether it is a publicly owned or privately owned monopoly, we do not see that it is going to make much difference.

Senator TIERNEY—Why are you saying it is a privately owned monopoly.

Senator SCHACHT—It is.

Senator TIERNEY—Rubbish!

Senator SCHACHT—It is 85 per cent of the market. If that is not a natural monopoly, I don't know what is.

Senator TIERNEY—If you have a look at an economic textbook, under the definition of a monopoly 85 per cent is not a monopoly.

Senator SCHACHT—It is in the bush. In the bush it is 100 per cent.

Senator TIERNEY—In an era of increasing competition, you have the position where you are more likely to get it. More niche players are coming in all the time.

Senator SCHACHT—Where? In the bush? Tell me.

Senator TIERNEY—It is early days.

Senator SCHACHT—It collapsed at Ballarat the other day.

Senator TIERNEY—You keep pointing to that example, don't you, Senator Schacht.

Senator SCHACHT—The minister used to keep pointing to it for years.

Senator TIERNEY—You probably cannot point to any other examples, can you?

Senator SCHACHT—He used to keep pointing to—

Senator TIERNEY—You keep coming up with the one example all the time.

CHAIR—Senator Schacht, will you cease interjecting. Senator Tierney, will you stop having a conversation with Senator Schacht. The National Farmers Federation are waiting and it is very rude of you to have an argument like this and perform like buffoons.

Senator TIERNEY—Tell him to stop interjecting.

CHAIR—Both of you bring yourselves to order. You ask the question, Senator Tierney.

Senator TIERNEY—Thank you. I was trying to, before I was rudely interrupted. If we look at the 100-year history of telecommunications, surely you must acknowledge that it is very early days in this new market situation but the direction is certainly going the right way. Would you like to comment on the ACCC's comments? When asked how Australia compared with other countries in the world, they said we were right up there in terms of setting up a telecommunications market that was very good indeed. Did you hear those comments earlier on?

Mr Sansom—No, I did not. I really cannot comment, other than to simply inform you that our members are reluctant to take this on trust. What you are saying may well prove over time to be the case. We have been asked to give you our views at this point in time. Our membership is gravely concerned as to whether adequate standards of infrastructure and service will be provided in those non-metropolitan areas. We, like the small business sector, would like to see stronger legislative safeguards in that area.

Mr Bastian—I have to repeat that that summarises our position as well, as best we can put it together in the time we have had here. I repeat that my understanding, when I sat through the ACCC's comments earlier on, was that they opened with the observation that in fact prices were not falling as rapidly here as they have in 13 other developed countries but that, with regard to our progress in terms of time elapsed down the path towards a more competitive process, we were performing quite well. That is my understanding, as well. I feel we have made huge advances under a competitive process, but we are talking about a privatised process here, and that is a different thing. We have reservations as to how the beast will be controlled once it gets out in the private sector.

I sense that time is running out and I would like to get onto the table a far stronger position about the way small business is shifting. The apparent difference between a domestic operation and a small business operation is merging. There is an incredible explosion in home-based businesses. We are talking of a leap from 291,000 to over 500,000 businesses these days who simply do not employ anybody. The nature of that small end of town is changing fairly dramatically.

I am trying to say that the real difference between a residential phone and a business phone operating from home is something which needs to be defined pretty clearly now, because currently it is Telstra which determines the price of that line, and not the client. If you list yourself in the *Yellow Pages* or if you seek to bold your name in the *Yellow Pages*—which, of course, is not owned by Telstra, so they say—you suddenly start getting charged business rates. Now it seems to me that, if a client—be it domestic, residential, big business or government—purchases a service, the charge should be based on the service you are purchasing, and not on the category that this very powerful body puts you into. That is a very important point, and I have tried to recommend that.

Senator SCHACHT—Mr Bastian, the last comments you made about the structure are pretty valid. Certainly, as a former minister for small business, I can recognise the trend into the self-employed area and I support what you have said in that area. I note that the recommendations you made for legislative change in some of these areas are very useful.

I want to ask Mr Sansom about a couple of points in his submission. The regional telecommunications development fund is for \$250 million over five years. Local government around Australia has often been involved in making applications in the past 18 months for

the first grants of that. Do you believe that that fund is going to be able to provide, to all people in non-metropolitan Australia, access to a minimum broadband service of, say, 64 kilobits per second?

Mr Sansom—I could not be that specific; but, as I said earlier, we certainly feel that the experience of the fund demonstrates that there is a lot more to be done—whether in that particular area I could not say, but I am happy to give you a response on that if you would like one.

Senator SCHACHT—I would like you to take that on notice. These are the issues that other organisations, some of them partly associated with yourself, are raising. We had the Western Murray yesterday in Melbourne to see us. They argued that the 64 kilobits per second, as the new definition of the standard telephone, should be upgraded. I do not think \$250 million over five years will achieve that sort of guarantee to all Australians, by whatever form of delivery. If you want that for small business across Australia, you are going to have to have an investment bigger than \$250 million over five years out of the regional telecommunications fund, which is being spread over all sorts of projects.

One other thing is that I notice that on the last page you mention the dreaded issue of the undergrounding program that the cable debate created. I notice with some concern that you say that the privatisation of the electricity supply in Victoria has led to a reduction in undergrounding programs. Do you have any more information from your Victorian members on that?

Mr Sansom—I do not have any details with me, but that is certainly our advice. I can again get you some more detail on that, if you would like.

Senator SCHACHT—But the privatised electricity distribution companies are now refusing to have any sort of program to go underground, even though the community may be in favour of it.

Mr Sansom—That may be putting it too strongly, but my advice is that certainly there is less inclination to do so and there is a slow-down in what has been occurring. I can provide some more details on that.

Senator SCHACHT—When you provide that information, we can also provide it to the government review of this issue at the moment, conducted by Mr Stevens from the department.

Mr Sansom—Yes; we are heavily involved. By way of concluding the local government submission, I would like to draw particular attention to the points we make in the final section of our submission. You will recall our concerns over the Telecommunications Act. Those concerns are simply redoubled by the suggestion that Telstra be fully privatised. We would like to see some significant changes in the regulatory regime accompanying privatisation, covering those points that we raise there.

CHAIR—Senator Margetts, we have a problem with time because we have the National Farmers Federation here and we have to be finished by 10 past 4. I am sorry, but I will not be able to allow you to ask questions because the time has been used up.

Senator MARGETTS—Can I just say, Madam Chair, that there is a very good argument that perhaps, just once along the way in the last two days, you could have asked me for questions earlier in the proceedings—just for a little bit of fairness?

CHAIR—I did once or twice today, to ensure that you got some questions, Senator Margetts. But I would also suggest that you come along to the hearings: it would make it a lot easier for all of us.

Senator MARGETTS—Madam Chair, under standing orders, I have a right not to cost the taxpayer \$2,000 to attend a hearing from Western Australia.

CHAIR—Thank you for your contribution, Senator!

Senator MARGETTS—Thank you so much!

Senator TIERNEY—So, no-one should turn up from Western Australia, I take it?

CHAIR—Thank you very much to those people who have attended today from COSBOA and from local government. I appreciate your contribution, and I appreciate your submissions. I thank you for your time. I am sorry that it has been a bit rushed, but we got a bit behind earlier in the day. Thank you very much.

Mr Bastian—Normally, we get a chance for a last bite: may I simply draw your attention to recommendation 5, which addresses both the portability of telephone numbers and web sites. Telstra is offering a web site development process for all of its *Yellow Pages* numbers. The ownership of a web site is an incredibly important issue, and I would like to see people who develop web sites through Telstra either advised very clearly that the web site is not theirs at the other end of it or else have that matter cleared up, for the same reasons as the portability of telephone numbers issue. People invest their goodwill in the structure of their web site and put a lot behind it, and to find themselves stuck there is a terrible thing.

CHAIR—Thank you very much.

[3.48 p.m.]

CERAMIDAS, Mr Robert, Chief Executive Officer, Farmwide Pty Ltd, National Farmers Federation, 14-16 Brisbane Avenue, Barton, Australian Capital Territory 2600

CRAIK, Dr Wendy, Executive Director, National Farmers Federation, 14-16 Brisbane Avenue, Barton, Australian Capital Territory 2600

NEEDHAM, Mr Mark, Director, Infrastructure Development, Farmwide Pty Ltd, National Farmers Federation, 14-16 Brisbane Avenue, Barton, Australian Capital Territory 2600

WATSON, Mr John, Senior Vice-President, National Farmers Federation, 14-16 Brisbane Avenue, Barton, Australian Capital Territory 2600

CHAIR—I welcome the representatives from the National Farmers Federation. The committee has before it submissions Nos 63 and 63A, which it has authorised to be published. Are there any alterations or additions that you wish to make at this stage?

Mr Watson—Madam Chair, with your consent, could we be joined by two employees of Farmwide, who have come along today to assist us with some of the technical discussion that may arise in this interchange?

CHAIR—That is acceptable to the committee. Are there any alterations or additions you wish to make to your submission?

Mr Needham—No, only a few opening comments; but the submission stands.

CHAIR—We will assume that the submission is taken as read and that you will only add anything that is not in the submission.

Mr Watson—Firstly, we appreciate the opportunity to address the committee on these issues. Access to comparable telecommunications is essential for rural Australians to enable them to compete in business and to enjoy a lifestyle in a manner similar to urban Australians and people in other countries. Telecommunications provides, potentially, practical alternatives to

people in rural and regional Australia as brick and mortar services are withdrawn. In time, these alternatives can extend to finance, health, education, trade and commerce. However, rural Australia lacks the quality and price of telecommunications services which are reasonably similar to urban Australia. Both the previous government and this government have contributed to an improved telecommunications environment in Australia. Despite these efforts, the levels and price of service in rural and regional Australia are not comparable to those in the cities.

It is NFF's view that ownership is not the major issue for us. The major issue is the quality and price of telecommunications services in rural Australia. Government ownership, however, may well provide a barrier to an effective rules based telecommunications industry. To ensure that rural Australia does not face a privatised telecommunications market from an infrastructural disadvantage—and rural banking is a sobering case study—NFF believes the following action is essential.

The standard telephone service must be upgraded to a standard telecommunications system by regulation in the Telecommunications Act 1997. The proposed amendments to the customer service guarantee in the telecommunications act must be passed. There needs to be the development of guidelines on triggers and processes for penalties and remedies, and a positive government response within 90 days of reporting by the ACCC inquiry on local call access. Guidelines are needed for selection of the universal service obligation providers in regional areas. A proportion of the sale of Telstra's proceeds—we suggest \$1.25 billion—should be used in expanding the Networking the Nation program and in upgrading and installing telecommunications services to users in rural and regional Australia on a worst-served, first-served basis.

NFF supports and welcomes the federal government's commitments on the USO, untimed local voice and data calls, and price caps for regional phone users. It is critical that the government establish a regulatory environment which ensures improvement of standards in rural Australia while encouraging competition in the market. We are happy to answer any questions from the committee.

Senator SCHACHT—Mr Watson, in your submission you make those recommendations. I want first of all to get this clear: you want the standard telephone service to be upgraded to a standard telecommunications service, to be available to all Australians, regardless of where they live. Can you give us more definition of what the standard telecommunications service would be?

Mr Watson—Certainly. It is the capacity to use modern digital information transfer technology, by all Australians.

Senator SCHACHT—We have had other submissions at these hearings suggesting that, as a minimum, that should be 64 kilobits per second. Is that a figure that the National Farmers Federation would agree with?

Mr Watson—Certainly—given the current technology that is available, and expectations today.

Senator SCHACHT—To achieve that, you do it in one of two ways. You can tell Telstra—because in the bush, they are the only ones who have the infrastructure—that they must upgrade, and then you make it part of the universal obligation so that, once it is achieved, the cost of the cross-subsidy of providing it is borne proportionally by all the carriers, as is the universal service obligation. Do you favour doing it that way?

Mr Watson—Yes; although we do also mention the benefit of using some of the capital that might be released through a sale to get a head start on the development of infrastructure.

Dr Craik—I suppose we are not too fussed about how it is done, but just that it be done. The means is not such an issue.

Senator SCHACHT—But, if you want a guarantee that everyone is going to get it, it is going to have to be put in the legislation as a universal service obligation.

Dr Craik—Yes.

Senator SCHACHT—The way to pay for it is either that the government gives money in a special allocation, or else you ask for the normal USO service obligation operation—which is the cross-subsidy, which at the moment is \$260 million per year—to be extended. I cannot think of any other way you can do it. You could say, ‘Sell Telstra and put money back into the pot.’

Dr Craik—That would be another option that we are suggesting: another \$1.25 billion to upgrade telecommunications services.

Senator SCHACHT—I was going to come to that figure, but 64 kilobits per second is in the ballpark for what you call the standard telecommunications service?

Dr Craik—Yes.

Mr Watson—Although, just to be clear, you need to understand that technology will change and expectations will change over time.

Senator SCHACHT—So the USO can be upgraded?

Mr Watson—Yes.

Senator SCHACHT—If the USO goes to 64 kilobits in the next couple of years, then as the infrastructure and technology developments occur can we say that maybe in five years time it will be at two megabytes?

Mr Watson—Yes.

Senator SCHACHT—If you put it at two megabytes now, I have to say that that is probably a bit much for even Telstra, with all its profits, to digest. In five years it may be very achievable, and from our point of view that is a target we ought to aim at to get real-time Internet connection for everybody, no matter where they are.

Dr Craik—We would certainly want to see it reviewed every five years or so to see if it can be upgraded.

Senator SCHACHT—Yes. For example, yesterday teachers from the Secondary Principals Association of Australia pointed out that last year, suddenly, without warning, Telstra started charging all schools on a commercial basis. In particular, the bills went up in rural schools because they made more STD calls. Telstra made no justification except to say, ‘Here is the bill. Pay the extra or you will get your phone cut off.’ Those are other areas that, from time to time, may be added quite legitimately to the USO.

The next point you make about the customer service guarantee says that the establishment of appropriate process and timely triggers for penalties and remedies may be applied without exception to all carriers. The government claims that the existing legislation they are putting forward does that. Do you agree with that?

Mr Watson—The penalties might be questionable as to whether they really are penalties for non-conformance.

Senator SCHACHT—This is the \$11 a month rebate?

Mr Watson—Yes.

Senator SCHACHT—You do not think that is high enough?

Mr Watson—Certainly, it is not anywhere near high enough to compensate for a rural business that is unable to conduct business.

Senator SCHACHT—For a couple of days or so?

Dr Craik—Or for a couple of weeks.

Senator SCHACHT—A couple of weeks; a couple of months. The other thing I wanted to raise is that we have been told that ISDN is available in the bush and all over Australia, except if you are more than seven kilometres from a telephone exchange. How many of your members are more than seven kilometres from a telephone exchange?

Mr Watson—My rough guess would be 98 per cent.

Senator SCHACHT—So that means they are out of a loop on ISDN?

Mr Watson—By and large, yes.

Senator SCHACHT—Do Mr Ceramidas or Mr Needham, who are running Farmwide, have any comment about what that does to the ability to provide information services to farmers?

Mr Needham—There are alternative technologies that can be used to get past that five to seven kilometre limit.

Senator SCHACHT—But they have a cost, I presume?

Mr Needham—Yes.

Senator SCHACHT—What is the cost of getting past that seven kilometre limit?

Mr Needham—We have no figures that would indicate the actual cost.

Senator SCHACHT—If a farmer were 10 kilometres from the exchange, could he ring up Telstra and say, 'I want ISDN and I will pay the difference for what you have to do to get it to me?'

Mr Needham—He cannot do that at present, but if his copper cable is thick enough, say, 0.9 millimetres, the ISDN cards that are in the exchange will support that extra distance up to some 18 kilometres, I believe.

Senator SCHACHT—Up to 18 kilometres?

Mr Needham—Yes, but only if his cable is thick enough—say, 0.9 millimetres.

Mr Ceramidas—There is thicker cable out there.

Senator SCHACHT—But not enough?

Mr Needham—And we are unable to find out from Telstra what the range of cables is.

Senator SCHACHT—Because Telstra does not know, cannot account for it, or will not tell you?

Mr Needham—Whatever the reason, we are unable to find out.

Dr Craik—Our understanding is that Optus have made a statement saying that digital data capability is available, or will be by the end of the year, to about 96 per cent of the population. Of course, the four per cent that it is not available to are our constituents.

Senator SCHACHT—And they are not the remotest Australians. It is actually in the agricultural zones in western New South Wales and in the mid-north?

Dr Craik—Yes, it is regional.

Senator SCHACHT—The four to six per cent are in the regional areas?

Dr Craik—Yes, this is the area that we are really concerned about.

Senator SCHACHT—Where your members are?

Dr Craik—That is right.

Senator SCHACHT—That is why I asked the question.

Mr Ceramidas—Interestingly, in the context of the question you asked originally on the telecommunications service, the technologies that are becoming available will answer some of that, we believe. One of the recommendations we are making is on enhancing the Networking the Nation program. Within that program there is already development occurring where we will see 64 kilobits available on a hand-held device; it is not just copper wire that is the issue or switches and exchanges. The essential element of the proposal and the recommendations made are to ensure that the opportunities are there to test and trial and ensure these technologies really do work in the locations that we represent.

Senator SCHACHT—I accept that. When you say 64 kilobits per second, I do not care whether it gets to you by smoke signals or whatever, as long as it gets there and the consumer can use it. The delivery mechanism is whatever is the best to get it there.

Mr Ceramidas—Absolutely.

Senator SCHACHT—But until you get access to it you are restricted and diminished in being able to have an equal access to people, say, in the cities who can automatically get it. On the \$1.25 billion, the slice out of the \$40 billion of the sale if it takes place, to go into Networking the Nation, from what I have seen, the applications that have been granted to Networking the Nation are, to say the least, a pretty diverse range of programs, which are almost episodic. I am not seeing a picture emerging that at the end of the five-year program some national broad improvement will have taken place in a delivery mechanism. Individual areas might have had a different trial, a different development of a project in that local area that is useful, different state systems may have been upgraded in a way; but you are not going to get, for example, moving on from 64 kilobits per second to 128 kilobits per second, funding through the operation of Networking the Nation, where communities put their bids in—

CHAIR—Senator Schacht, do you think you can make your question short?

Senator SCHACHT—I will try, but I do want to explain that what I am getting to is that I cannot see Networking the Nation, with the way it is presently structured, filling in, in a comprehensive way, the gaps that we are identifying that are in regional Australian communications.

Dr Craik—We are proposing to employ a consultant to see whether we cannot put together some costed proposal as to how those gaps might be filled in and actually present that to the government. Some \$1.25 billion was based on a pro-rata of the \$250 billion.

Senator SCHACHT—It was just a pro-rata figure?

Dr Craik—Yes.

Senator SCHACHT—You are the first person to put up a figure. I thought you had actually done the work and identified the gap, and that we were now really starting to cook with gas here, but it is a pro-rata figure. The next issue on the networking is the formula for the way the funding is allocated. From my perspective, it is a bit dodgy, to say the least, and it favours those states that have the least number of metropolitan, urban dwellers irrespective of how

many they have outside. That is the way that money is proportionately allocated, so Western Australia gets a lot less proportionately than Tasmania, and so on. That is a decision the government made and I will not get into that. Again, I would think you would have to readjust if you wanted a comprehensive improvement of equity of access issues across all consumers in the bush. You could not use that existing formula. Can you have a look at that particular aspect if you are going to get a consultant in to look at what you need?

Senator MARGETTS—I wanted to ask what kinds of surveys the Farmers Federation have done of their members and what kind of message the members have given. If they have done surveys, has any message been given about opinions about the full privatisation of Telstra?

Dr Craik—I think it is fair to say we have not surveyed all our members. We have not met as a council since this issue came up. We are meeting in two weeks time to discuss the issue and no doubt there will be a full debate on some of these issues at our coming council meeting.

Senator MARGETTS—The other one is about dealing with farms as a business and a decision to charge business rates. Obviously you have an opinion on that.

Mr Watson—We certainly do, and it is a bit of a random option as to whether people are charged at the business rate or at the residential rate. I know that, in my own case, the telephone connection to the house on our farm is charged at a residential rate, but I understand some other people have had some discussions with Telstra about being charged the business rate.

Senator MARGETTS—Are there concerns about the level of scrutiny that Telstra may have through the parliament on these kinds of things, if they are fully privatised?

Mr Watson—The fundamental question that we are more interested in is why the heck there would be any difference between a residential rate and a business rate in any case, if these charges are to be based on actual costs, unless there is some assumption that there is a universal service obligation to all households that should be subsidised by business tariffs. I am not aware of that and I really do not understand why there is a difference.

Senator MARGETTS—Thank you very much.

Senator SCHACHT—On this issue of funding and infrastructure in the bush, I want to draw your attention to something—and the secretariat can send it to you, and will. In an answer to a question on notice I asked in February to Telstra, I finally got the answer. Telstra is spending something like close to \$800 million per year on infrastructure and capital works in rural Australia. The real issue is what they are spending it on and how they are spending it. I raise the figure because you have asked for \$1.25 million per annum, and Telstra is already getting close to that figure and in one year is spending three times more than what is in the Networking the Nation fund. Have you had any discussions with Telstra on how they spend that \$800 million to upgrade the system in the bush, to be equivalent of the city?

Mr Ceramidas—Senator, the \$1.25 billion is not really for the totality of infrastructure development over the next number of years in the bush; it is there in effect to move on from what has been provided in the initial \$250 million. It is there as a catalyst to get community organisations, local groups and commercial organisations to bring together the parties, the interested entities, to make sure that a structure can be developed. And \$1.25 billion is really still a drop in the ocean, in terms of developing infrastructure in the bush. It is there for another purpose. It is there, as I said, to carry on from what has already been started with the Networking the Nation program—or that is what has been suggested, anyway.

Senator SCHACHT—I re-emphasise my query. If it is going to be spread through hundreds of individual applications going in different directions, you will not actually end up at the end of the day with a national communications system delivering equity of service to regional Australia as for the city.

Mr Ceramidas—Our experience to date really already is that, in the applications that have been approved, there is a level of coordination and a level of interaction to ensure that perhaps that will not be the final outcome. We are finding that the groups are conferring together. They are coming together on issues to decide the best way to achieve the bottom line purpose with that fund, to make sure we do get infrastructure development on the ground out there. There have only been two allocations of funds, to date.

Senator SCHACHT—Yes, but when I have looked through the list, there may be 20 or 30 applications or whatever, and they vary between half a million or a few thousand dollars for some study in an area, right through to yours, for about \$5 million, which was, I think, the biggest so far. I congratulate you on that. When you put them all together, there are still large numbers of areas of regional and rural Australia that have got nothing. They have not applied. They might not know how to apply—and, even if they did, there is not enough money available to even do what you are doing for every farmer. Your money will not provide the service to the 100,000 farmers in Australia, will it?

Mr Ceramidas—Obviously not.

Senator SCHACHT—How much do you think it would cost you through Farmwide to provide the same service as for to 1,000 to 100,000 farmers?

Mr Ceramidas—Yes, of course.

Senator SCHACHT—The issue I am getting to is that we want a system such that, no matter who you are, you have the same access as others do to it—if you choose to use it.

Mr Ceramidas—You want to ensure that it happens, though. We have had a number of years of government ownership where it has not happened. We are finding, in the short term, that it is beginning to happen. People are doing it because they need it themselves. It is happening.

Senator SCHACHT—Yes, but it is no use them wanting it to happen and then finding there is no money there to provide that infrastructure. I welcome what you are doing to encourage the uptake, in education. A lot of those funding programs are educational, to start off with, to explain what it all means. In the end, it is going to be a big ask, running into billions—I suspect—over a period of time, to put the infrastructure into place.

CHAIR—Mr Ceramidas, you indicated that it was not happening when Telstra was totally in government ownership. Is that right?

Mr Ceramidas—Let me put that in the right context. What we are doing with the farmwide program is ensuring that people who are using these technologies, who are trying to find out whether they can get 64 kilobits, can put their hand in and have a go at trialling new technologies and work out what that means for them. Will they build demand and build the reasons that people would want to build the infrastructure out there? Which comes first: the demand or the infrastructure?

With the Networking the Nation program that process is really beginning to roll. People are saying, 'Yes, we want these products. We are using them. We have a vital need for them for our sustainability and survivability out here. Please help us build the demand.' As a consequence, we will see competitive elements, even, build that infrastructure. Already we

have seen some interest in competitive processes that will build that infrastructure for those people demanding the services.

CHAIR—This is irrespective of the ownership of Telstra. We can range around on all of the discussions about telecommunications but really the point of the discussion here today is the further privatisation of Telstra. That is going to be an issued whether or not Telstra is privatised.

Mr Ceramidas—As the submission of the NFF indicates, ownership is not the issue; it is services, and the delivery of those services and the best way to ensure that that happens. We have had a period of government ownership; who knows what the options might not be. We would like to see every possibility addressed and looked at in terms of what will be the final results. I think what we are seeing is that the opportunity is starting to grow.

Dr Craik—I think the point in our submission is that it is not the ownership but that we want rural Australia to start from the same starting point as everyone else in Australia.

Mr Watson—Madam Chair, I did make mention when you were out of the room that we have a niggling concern that government ownership of Telstra may be inhibiting the government from introducing an effective rules based system that would enforce a better level of service than what we have been getting. So there may well be issues that are not absolutely clear that would have an impact on Telstra's desire, not ability, to provide the level of service that we are concerned about.

Senator SCHACHT—Mr Ceramidas, you said that there was some indication of competition—other than Telstra—providing dishes. Can you give us some examples of that.

Mr Ceramidas—Let me use the mobile communication as an area. People are starting to talk about 64 kilobits on a hand-held device and about usage levels. A lot of farmers are beginning to use mobile phones, and we are aware of other companies that would be willing to start building infrastructure out there, and we want to see that.

Senator SCHACHT—Do you mean by infrastructure putting up cells?

Mr Ceramidas—Yes, putting up competitive cells and providing competitive services. But they have got to see the demand. Until that demand is there, they are not going—

Senator SCHACHT—Are they willing to do this in digital?

Mr Ceramidas—That is the interesting thing; that is exactly where they willing to do it. It is third generation mobile equipment, for example, which is the crux of this. We have seen it, we know about it.

Senator SCHACHT—But, in the end, even if they do that, at some stage, for the foreseeable future, they are going to have to come back and connect into the Telstra system. If they have the tower outside Wagga or near Wagga, and they want to make the call connect into Hobart, unless Telstra has the infrastructure right, it will not work, no matter how you look at the add-ons. I am all for encouraging that but sooner or later Telstra's network will be the basic infrastructure which people will go in and out of to provide that service. We have had no evidence given to us by all of the competitors that that is other than the way it will be. That is why they are arguing over interconnect fees. Even in mobile they want this issue dealt with that there be roaming on Telstra, Optus and Vodafone mobile towers so that new competitors can come in. Unless that is agreed to they may well not be able to develop it.

Mr Ceramidas—But this is the point that we have made—that it is a rules based issue, ultimately. It is not who owns it but how it is regulated and what the rules are.

Senator SCHACHT—On the issue of ownership, Telstra will make a decision that is driven by profit. Yesterday's evidence from the Telstra executives made it very clear that the shareholders will drive the company, and the shareholders will want increased profit. They will not automatically be worrying about whether West Wyalong has enough capacity for 64 kilobits. That will have to be imposed by regulation and/or government direction.

Dr Craik—I just make the point that we have discussed this issue of privatised telecommunications and competition telecommunications with farm leaders from New Zealand and United States. Leaders from both countries said that the issue of services in a privatised market is not an issue for them. Even in New Zealand, where what was a public monopoly went into private ownership, and they do now have some competition, rural New Zealanders—I admit New Zealand has nowhere near the geographic features that Australia has—have found quantum changes in performance with a privatised and competitive market. They do not have nearly as much regulation, as I understand it, as we do here in this country.

Senator SCHACHT—And as a result, there are complaints that they have still got a dominant player over there.

Dr Craik—But their service levels are very good.

Senator SCHACHT—Improving, and they are improving in Australia.

Dr Craik—But they are extraordinary improvements in New Zealand.

CHAIR—I am sorry, Senator Schacht, if that is not what you wanted to hear. The thing that is being said there is that it is important to get regulation right to ensure access and equity to rural people.

Mr Watson—We think that is where we have been let down in the past and that has to be addressed if we are going to get the level of service that is fair and reasonable for all Australians. It is the rules that have to be strengthened. We have had public ownership for a very long time and that has not provided it. If we were to go to private ownership without the appropriate rules, it still would not provide it.

CHAIR—When you say it has not provided it, you need to clarify it. We did not have a fax when we first came to this office 10 years ago. So, say, eight or nine years ago when people started to use faxes, the bush was left out in that. We are not just talking about digital transmission of Internet and things like that. You are saying that, irrespective of what it is, whenever there is some new innovation in telecommunications the bush is the last to get it.

Mr Watson—We have still got members out there that cannot use a fax machine.

CHAIR—That is what I am saying.

Mr Watson—And that is old technology.

CHAIR—Yes. So it is not just the new technology; it is old technology and getting left behind. Whether or not it is privatised, the bush gets left behind.

Mr Watson—That has been our experience. I make that comment yet again because if the inhibiting factor of the government—having a strong enough set of rules that ensures that country people get an appropriate level of service—is such that the government owns the business and does not want its own business operating into a loss, then that is a barrier.

CHAIR—Yes.

Senator SCHACHT—I will just point out that in the government's draft legislation, which has been through the House of Representatives and now the Senate, there is no proposal to

change the existing definition of the universal service obligation. You are still going to be stuck with only getting a normal telephone connection.

Dr Craik—It is one of the issues about which we have sought a response from the government.

Senator SCHACHT—We have discovered that the customer service guarantee, as you have mentioned, is not even a flea bite to Telstra. It may pay out \$100,000 a month, which is barely \$12 million a year, but what they save on reduction in service more than covers paying the penalties. With respect to the \$10 million penalty, and the way it is being structure—if it ever occurs—it may be our grandchildren who will be lucky to see it.

There is nothing in this proposal to achieve what you want in a guarantee of increased service. If the government was fair dinkum, they would put further amendments in on universal service obligation to say that all those things you want will be guaranteed by regulation. They refuse to move on it. We tried 18 months ago to put that in the legislation and they refused to buy it. So we are a bit cynical about what the government is on about here. I think it is basically about jacking the price of Telstra up by not having too many obligations on Telstra.

Mr Watson—I think we have covered most of those points in our submission.

Senator SCHACHT—Yes, I know.

CHAIR—Under the rules when there was no privatisation, before partial privatisation of Telstra, there were no customer service guarantees. Do you see that as an advance, that there have been customer service guarantees in that previous bill?

Mr Watson—What is progress? When you have a range of community service guarantees for installation from seven or 14 days in a metropolitan area extending out to 27 months for our members then there is a very obvious anomaly. We believe there should be the same customer service guarantee to customers of the industry, whether they live in Bondi or Bourke. There is technology available today for the carriers to provide people with a service. It may be more expensive but, if they cannot get a land line to somebody's property for 27 months, we think there is an obligation that they are provided with some alternative service. That is available today through the satellite technology. I think to leave people hanging out there for 27 months makes a bit of a nonsense of a customer service guarantee. It is the scale of it that we would disagree with.

Dr Craik—We also want to see a regime that means that, if those customer service guarantees are not met, the penalties and remedies address the issue rather than neither having an impact on the carrier nor on the victim.

Mr Watson—Fundamentally, we are saying that, if there were a culture that customers need to be serviced, whether they are in the city or in the rural area, there are alternative technologies that could be used as a stopgap. It would be a very good outcome for there to be the attitude that all customers are to be treated the same. In some instances we might have to use some alternative technology, and that may come under a community service obligation—in fact, it seems sensible to me that it would come under a community service obligation because of the additional cost.

CHAIR—Thank you for attendance today. I would like to thank *Hansard* and Senator Margetts, and also the staff of the committee for their organisational assistance during the hearings.

Committee adjourned at 4.22 p.m.