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TELSTRA INQUIRY
Submission No. 49

31 January 2003

The Secretary
House of Representatives Communications,
Information Technology and the Arts Committee
R1, Suite 116
Parliament House
Canberra ACT 2600

Dear Sir or Madam

Inquiry into the Structure of Telstra

The Australian Council for Infrastructure Development (AusCID) welcomes the opportunity to make a brief submission on the House of Representatives Communications Committee's Inquiry into the structure of Telstra.

While it is appropriate for others to address the more technical questions raised in the terms of reference to the inquiry, AusCID wishes to address select issues that are relevant to infrastructure investment and delivery.

As the principal representative of investors, operators, financiers and service providers to public infrastructure, AusCID is always concerned about issues that threaten investor confidence in the development of infrastructure. In our view, a structural separation of Telstra would represent a serious assault on investor confidence in Telstra, telecommunications, all regulated infrastructure and Australia generally due to the increased sovereign risk of undertaking such projects in Australia.

While supportive of structural separation of aggregated infrastructure businesses to achieve appropriate sub-units designed to foster better market competition, AusCID considers that the "horse has bolted" in relation to Telstra. While separation is theoretically attractive and in the interests of greater competition, it should have been carried out before the partial privatisation of Telstra, for example, as was the case with the Victorian electricity sector. To undertake separation now raises a number of significant investor-oriented issues.

Specifically, AusCID considers that:

1. Structural separation would impose very significant administrative costs associated with dividing the core network from its other businesses. These additional costs would be passed on to investors and consumers including other businesses.
2. Structural separation would reduce the value of Telstra shares by reducing its capacity to generate revenue and develop business opportunities.
3. A new regulatory requirement that caused Telstra to divest an existing investment, or imposed new restrictions on the scope of its network or business operations would be directly damaging to Telstra's existing business. Such a regulatory intervention would be totally unexpected by investors. Indeed, investors, including foreign investors, purchased shares in two Telstra share offers based on offer documents, which, at minimum, anticipated a continuation of the existing businesses. Such a decision would raise the issue of government compensation to Telstra shareholders.
4. Telecommunications is already a high cost and high-risk business. Dividing the network at this point in time, or separating retail and network function would limit the ability to minimise the risks associated with developing new and supplementary services.
5. Limiting structural separation to one provider when there are competing vertically integrated networks would be inconsistent with the creation of a level playing field. It would appear as a 'punishment' for Telstra and for Telstra investors that would discourage all infrastructure investors for fear they also could be punished at some later date.
6. The effects would not be limited to Telstra or telecommunications. Other infrastructure providers in sectors such as electricity, gas and rail are all very concerned by regulatory intervention and over-reach. Access pricing is often considered too low to justify additional investment. Further regulatory intervention would increase those concerns in all infrastructure investments.

It is therefore AusCID's view that imposing structural separation on Telstra has the potential to significantly increase the perception of sovereign risk amongst potential investors in Australia and pose a serious disincentive for long term investment and innovation.

Potential investors, particularly those from within the international investment community, will more than likely place their funds in those offshore markets where there is less risk of being forced to operate in an environment that is unpredictable and potentially uneconomic and inefficient.

This is clearly not in the public interest and is more likely to lead to social and economic inefficiencies and, ultimately, sub-optimal outcomes for consumers.

In particular, AusCID urges the Committee to carefully consider the negative impacts that the proposed structural separation of Telstra is likely to have on future infrastructure investment in the Australian telecommunications market. To guarantee the on-going provision of adequate services to all end-users, including those in regional and rural Australia, it is vital that the right incentives continue to be in place that facilitate investment and innovation in this area.

We hope you find these comments useful.

Yours sincerely

Dennis O'Neill
Chief Executive Officer