

By email to: ic.reps@aph.gov.au

05 November 2011

The Committee Secretary
House of Representatives Standing Committee on Infrastructure and Communications
PO Box 6021
Parliament House
CANBERRA ACT 2600
AUSTRALIA

Dear Sirs

The Telecommunications Amendment (Enhancing Community Consultation) Bill 2011 Submission

I am a resident of Bardon, Brisbane. In 2009 Telstra commenced community consultation to place a mobile phone base station near my son's school. I became involved in the community group objecting to this facility, later I became a community representative on the *Industry Code (ACIF C564:2004) Deployment of Mobile Phone Network Infrastructure (ACIF code)* review committee responsible for updating the industry code for the placement of low impact facilities, and ARPANSA's EMR Reference Group (EMERG). The following submission is made in light of these experiences.

1. Recommend that Amendment 3 (paragraph 6(7)(a) of schedule 3 be changed to include EMR emission as well as visual impact.

Example: Feedback received by the No Towers near Schools group suggests The EMR emissions from towers is of greater concern than the visual impact, therefore extensions to towers should consider visual and EMR concerns, especially near sensitive sites, such as schools, and aged care facilities.

2. Recommend that any modifications to existing mobile phone base stations (such as additional antennas, larger antennas or increased EMR emissions) require the carrier to undertake the same community consultation requirements as for constructing new base stations .

Example: At present carriers can increase the number of antennas on an existing facility from 1 to 1,000, or emissions from a facility without undertaking further consultation. In Bardon a base station erected close to Rainworth state school on Main Avenue had been upgraded following its initial construction, without any community consultation, In other Brisbane sites additional antennas have been placed on shop roofs, again without any consultation with the community as to health or visual concerns .

3. Recommend the carrier must consider the cumulative effect of EMR from existing or proposed mobile phone base stations when consulting with the community about a new or upgraded facility

Example: The existing code does not require carriers to consider existing or proposed facilities, when consulting with the community

4. Recommend the cumulative EMR at sensitive sites be less than 0.1 $\mu\text{W}/\text{cm}^2$..

Example: The scientific community appears to be divided on the effect of EMR on people, especially the young, and elderly. Biological effects have been reported as low as 0.1 $\mu\text{W}/\text{cm}^2$, therefore a precautionary approach is recommended until the effects of EMR can be confirmed. Current Australian standard is 450 $\mu\text{W}/\text{cm}^2$. Interim results from European trials suggest telephone networks can operate at lower EMR levels than the current Australian standard

5. Recommend legislative strengthening to the ACIF code for low impact facilities that require a carrier to "...have regard to..." community feedback.

Example: The ACIF code, is an industry self regulation code. It requires carriers to "**...have regard to...**" In practice this phrase negates the carrier's requirement to action any community feedback received during community consultation. The ACIF code is currently under review. I am one of two community representatives on the review committee. The new code makes no changes to the phrase "**...have regard to...**" In Bardon there was significant community objection to the proposed base station. (2 x Federal MP's (Michael Johnson (His electorate included the school), Arch Bevis (His electorate included the proposed base station)), 1 x State member (Andrew Fraser), 1 x local councillor (Peter Matic), 400+ community members at a Telstra organised community event (Telstra only recorded 133 who were able to enter the venue), 800+ signature petition objecting to the base station, 200 written objections, 10-20 letters to Telstra CEO and Board, And Senator Conroy. Following the community consultation Telstra advised BCC they planned to proceed with the base station without any amendments. The ACMA's investigation found that Telstra had **not** breached the ACIF code, as it had "**...had regard to...**", despite the community's objection, and suitability of an alternative site(s) that is now under construction.

6. Recommend legislation be extended to include antennas used for smart water meters.

Example: The current legislation only applies to mobile phone network operators. Mobile phone base station providers (such as) and water companies installing smart meters, which utilise technology similar to mobile phone base stations are not covered by the act, or proposed amendment

7. Recommend Introduce alternative penalties for non compliance with the Bill.

Example: The ACIF code review terms of reference excluded the ability to review the penalties for non compliance, as these were considered legislative issues. The ACMA currently has the ability to prosecute carriers for breaches of the ACIF code, and levy fines upto \$250,000. Verbal advice from the ACMA (Michelle Richardson) is that no prosecutions have been made since introduced in 2003. I understand this is due to the cost of taking carriers through the federal court system. This implies the existing penalties are ineffective, and alternative penalties which are easier to place and enforce such as warnings, infringement notices, the ability to engage independent expert advice and the like be made available to the ACMA.

8. Recommend greater governance of the industry self regulated code and the provision for Ministerial discretion where dispute between the carrier and community.

Example: The current and updated ACIF code review excluded this recommendation as out of scope. The current code relies on industry self regulation, this is failing the community. A legislative requirement for the following would provide enhanced community engagement

- A) the provision for ministerial discretion/intervention to intervene in individual roll outs that is of concern to the community, such as those near environmentally sensitive locations, schools and
- B) An independent body such as ACCAN is given greater authority to audit and regulate the application of the code to ensure compliance
- C) Establishment of an appeals body, or ombudsman comprising the ACMA, and representation from carriers and communities to consider complaints associated with the consultation process

If you require further information in relation to the above, please do not hesitate to contact me

Yours Sincerely

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