
Australian Democrats Minority Report

Telecommunications (Consumer Protection and Service Standards) Amendment Bill (No.2) 2000

Senator Lyn Allison

Contestability in the provision of services under the USO is something which the government has portrayed as the remedy to all the problems which have beset rural and regional telephone users. As we commented in our minority report on the Telecommunications (Consumer Protection and Service Standards) Amendment Bill No.1 2000, the Australian Democrats are concerned that contestability is the government's one and only real regulatory policy to equalise the disparity in services and technologies available to those in rural and remote Australia as compared to those in metropolitan Australia.

Supplying Services which don't meet the Standard Telephone Service

Both Telstra and the CEPU commented, in their submissions, on the ability of a carrier to market a lower-featured service (than the standard telephone service) to consumers at a discounted price.

The ability of customers to make an informed choice about accepting a lower-featured service at a discounted price relies heavily on the customer being fully informed about the services or technical capabilities that they won't receive if they choose that service.

The Explanatory Memorandum states (at page 59-60):

In choosing whether to take an ATS in fulfilment of the USO as opposed to standard USO services, consumers will need to be mindful that ATS may not be subject to the same requirements as standard USO services. An ATS supplier will be expected to identify any divergence from standard requirements in its marketing plan and to inform consumers of them.

The problem is that the Bill does not require the specific identification of that divergence.

Proposed section 13Q obliges a competing universal service provider (CUSP) to include in its ATS marketing plan appropriate terms and conditions on which the equipment, goods or services are to be supplied. However, there is no requirement that if the equipment, goods or services to be offered don't meet the specifications of the standard telephone service that that fact should be highlighted to the consumer.

The result is that the onus is on a consumer to make a comparison of what they currently receive as the standard telephone service and what is being offered as the lower-featured service.

The Democrats recommend that the Bill be amended to require that an ATS supplier identify any element of the standard telephone service that is not met by the service it is offering in its marketing plan and to consumers.

Assessment of contestability pilots

This Bill establishes a regime which will permit contestability in any universal service area. There is no reference in the Bill to the contestability pilots or to the basis on which contestability will be implemented throughout Australia.

The government does not seem to have or at least has not announced a clear plan of what will occur in relation to contestability for the remaining universal service areas in Australia. The approach appears to be very much one of 'playing it by ear'.

At the very least the Australian Democrats believe that there must be a full assessment of the contestability pilots at the end of a specified period, say 2 years. If after a period of 9 months, it appears that the residents of the pilot areas are benefiting significantly from contestability, it could be open to the Minister to commence the assessment early, with a view to expediting the expansion of the program. However, regardless of the time period involved, the government must not be permitted to expand the program without a full and public assessment of the costs and benefits of the program. The assessment and the publication of the results need to be viewed as a precursor to any expansion of contestability.

Subject to being able to draft an appropriate amendment, the would like to see the Bill contain a provision requiring the tabling of a public assessment of the pilots before contestability is pursued outside the pilot areas.

The Democrats recommend that a comprehensive public assessment of the contestability pilots be undertaken at the end of 2 years and that no expansion of the contestability arrangements should occur until the publication of that assessment.

The level of the USO subsidy

The level of the subsidy will be a key determinant to the success of the pilots. Clearly if the subsidy level is too low, carriers will simply opt not to compete for it. Telstra will fairly quickly recognise whether it is likely to be subject to competition and will adjust its behaviour and its offering to consumers accordingly.

On the other hand, if the subsidy is set too high the USO cost will blow out and all telecommunications consumers will bear a higher impost.

A number of submissions expressed concern that the proposed regime may result in an increase in the USO cost. The Australian Democrats don't believe that an increase in the total USO cost is necessarily something to abhor provided firstly, that it doesn't occur because of substantial infrastructure duplication and secondly that it is accompanied by an improvement in the range of reasonably priced services available in the universal service areas.

Conclusion

In our Minority report on the Telecommunications (Consumer Protection and Service Standards) Amendment Bill No.1 2000 we remarked that:

As a general comment the Democrats do not necessarily agree that competition is the best method of achieving better services at lower costs for people in rural and remote Australia...

We believe that reviewing and increasing the level of the standard telephone service through the USO mechanism may be the best method, at this stage, of ensuring that residents of rural and remote Australia are not left behind with the continual advent of new technologies. We are disappointed that the government has not so far agreed to legislate a periodic review of the USO standard telephone service.

Our positions in relation to upgrading the level of the standard telephone service and periodically reviewing the standard telephone service remain unchanged.

The Australian Democrats reserve our position in relation to this Bill.

Senator Lyn Allison

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