

## CHAPTER 2

### UNIVERSAL SERVICE AND CUSTOMER SERVICE ISSUES

2.1 Regulation of telecommunications has two main purposes:

- to counteract market failure - for example, to break down natural monopolies, barriers to entry, or anti-competitive behaviour;
- to ensure, for social policy reasons, minimum standards of affordable telecommunications service to all Australians regardless of their location, in circumstances where services might not naturally be provided in even a perfectly competitive market.

2.2 The measures in the present bills for enhancing competition are considered in chapter 3. Issues to do with assuring minimum standards of service and consumer protection are considered in this chapter. It should be noted that the regulatory scheme applies without regard to ownership. Most submitters to this inquiry, though they had various concerns and suggestions about the regulatory scheme, had no objection in principle to the sale of Telstra providing the regulatory scheme is strong enough.

2.3 The pro-competition regulatory regime may be considered as the underpinning of consumer protection, in that more competition is expected to flow through into cheaper and better services generally. As well, there are various more direct consumer safeguards to ensure adequate telecommunications service for all Australians. The rationale for these, according to the government, is that -

...While competition will, in most cases, provide a good outcome for consumers, there is a need for safety nets to ensure that in all cases consumers have a guarantee of certain basic levels of service.<sup>1</sup>

2.4 This applies particularly to people living in the smaller states and in rural and regional areas where competition may be slower to develop.

2.5 These safeguards are:

- the Universal Service Obligation, which ensures that standard telephone services and pay phones are reasonably accessible to all people in Australia on an equitable basis, wherever they reside or carry on business (*Telecommunications Act 1997*, section 138)

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1 Minchin the Hon N., *Telecommunications (Consumer Protection and Service Standards) Bill 1998* - second reading speech, Senate *Hansard*, 30 November 1998, p.610

- the National Relay Service, which provides a service comparable to a standard telephone to people with a hearing or speech impediment (*Telecommunications Act 1997*, section 221A)
- access to untimed local calls, and comparable benefits for rural customers outside standard zones (*Telecommunications Act 1997*, section 222, 226)
- price caps applying to Telstra (*Telstra Corporation Act*, section 20), and power to regulate charges for the defined universal services (*Telecommunications Act 1997*, section 172)
- directory assistance to users of a standard telephone service (*Telecommunications Act 1997*, schedule 2 clause 7: standard licence conditions). Under present price cap arrangements, Telstra may not charge for directory assistance.
- emergency call service (*Telecommunications Act 1997*, section 264)
- the Customer Service Guarantee, which sets standards for installation, fault rectification and appointment-keeping by all carriage service providers, and sets damages payable to customers when the standards are not met (*Telecommunications Act 1997*, section 234)
- a scheme to protect customers' payments in advance against default by a service provider (*Telecommunications Act 1997*, section 252)
- the Telecommunications Industry Ombudsman scheme to investigate customers' complaints (*Telecommunications Act 1997*, section 244)

2.6 All these protections continue unchanged in the *Telecommunications (Customer Protection and Service Standards) Bill 1998* (the *T(CPSS) Bill*), but with the following enhancements:

- The power to regulate Telstra's prices is amended to make it clear that price caps can include charges for untimed local calls in regional areas; to allow different price control arrangement to apply in relation to one type of Telstra service charge; and to require Telstra to comply with any determination setting out price control arrangements (*T(CPSS) Bill 1998*, part 9). As well, an amendment to the *Trade Practices Act 1974* will make it explicit that the Australian Competition and Consumer Commission (ACCC) is responsible for monitoring and reporting each financial year to the Minister on Telstra's compliance with its price control arrangements and the universal service provider's compliance with any universal service-related price controls (*Telecommunications Legislation Amendment Bill 1998 (TLA Bill)*, schedule 1 item 29).
- A new 'systemic problems' provision enhances the Customer Service Guarantee (CSG) by allowing the Australian Communications Authority to give directions to carriage service providers with a view to ensuring that they comply with CSG performance standards (*T(CPSS) Bill 1998*, clause 118). Disobeying such a direction could incur a penalty of up to \$10 million. This provision answers the

complaint that the regulated damages for failing the CSG standards are too small, so that companies might find it cheaper simply to pay the damages than to provide the service. As well, a new provision will enable the Australian Communications Authority (ACA) to make a determination requiring carriage service providers to give customers specified information about terms and conditions of service and about their rights as customers including their rights under the Customer Service Guarantee (*TLA Bill 1998*, schedule 2).

2.7 The *T(CPSS) Bill 1998* also includes a new power for the Minister to direct Telstra to comply with the Act (clause 159). Disobeying such a direction could incur a penalty of up to \$10 million. This provision replaces the Minister's more general power to direct Telstra (*Telstra Corporation Act 1991*, section 9). The current more general power to direct will be repealed when Commonwealth ownership of Telstra falls below 50 per cent, as the government thinks the more general power is inappropriate in a competitive private telecommunications market.

2.8 Submissions approved the measures proposed in the bills, but made various suggestions as to how, in their view, the consumer safeguards should be strengthened further. These are summarised below. These suggestions raise policy questions which have no *logical* connection to the proposed sale of Telstra (since the regulatory regime applies to all without regard to ownership). Their connection to the present inquiry arises from the concern that (to quote the Western Australian government, for example) '...further tightening of the safeguards... is necessary to be both legislated and proven effective before the sale proceeds'.<sup>2</sup> The Committee comments on this argument on page 28.

### **Universal Service Obligation**

2.9 The Universal Service Obligation (USO) requires a universal service provider to provide a 'standard telephone service' (voice telephony, or equivalent service for people with disabilities) to all who request it; to provide payphones; and to provide any other services prescribed in the regulations (at present, no other services are prescribed). The Minister may also declare 'regional universal service providers' for specified areas. If an area ceases to have a regional universal service provider, the obligation to provide the universal service in that area defaults back to the national universal service provider (*Telecommunications Act 1997*, sections 17, 141ff).

2.10 At present Telstra is the national universal service provider. The government's policy is to call tenders for the provision of the universal service, and this was welcomed by most witnesses at this inquiry, including both Telstra and Telstra's competitors.

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2 Submission No. 9 (Government of Western Australia), p. 9

*Expansion of universal service to include data capability*

2.11 An Australian Communications Authority Standard sets the minimum data speed for voice telephony at 2.4 kilobits per second (kps). This, though adequate for voice telephony, is far too slow to support data applications such as fax or Internet access: for example, at this speed it would take about 100 seconds to fax an A4 page, or 3 minutes to view an average Web page. In practice the Public Switched Telephone Network (PSTN), though it was not designed for it, can transmit data at useful speeds to most customers. However, in this regard rural customers are relatively disadvantaged, largely because data speed drops over long runs of copper wire. A data rate of 28.8kps is available to 60 per cent of urban and major provincial customers but only 30 per cent of rural and remote customers.<sup>3</sup>

2.12 Several submissions stressed the importance of modern telecommunications in rural and regional areas - in fact, they argued that, because of physical isolation, modern telecommunications are relatively *more* important in rural and regional areas than in the cities. For example, according to the South Australian government:

Telecommunications services are becoming an increasingly important mode of delivery for State Government services to the community... It is apparent from this State's experience with the Commonwealth's Regional Telecommunications Infrastructure Fund (RTIF) that regional awareness and expectations of telecommunications services and technology is at an all-time high and that regional users are equally if not more demanding than their city counterparts...<sup>4</sup>

2.13 According to the Western Australian government there are a significant number of unmet needs in rural areas which could be delivered electronically:

... One is thinking in terms of health services, education services and a number of others. That requires data capacity rather than voice capacity. Outside of the Perth metropolitan area, over 70 per cent of Telstra's customers cannot get a data speed over 28.8 kilobits per second, whereas most of those electronic service delivery methods require 64 or 128 or higher data speeds. The existing infrastructure is not able to provide that.<sup>5</sup>

2.14 Submissions feared that 'the lack of a data capable USO will only serve to exacerbate the widening gulf between the information rich (major cities) and the information poor (regional) residents'.<sup>6</sup> The National Farmers Federation among others argued strongly that all Australians, regardless of location, should have affordable access to digital data capability:

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3 Australian Communications Authority, *Digital Data Inquiry - public inquiry under section 486(1) of the Telecommunications Act 1997*, August 1998, pp. 5,19,33

4 Submission No. 25 (Government of South Australia) pp. 3-4

5 P. Skelton (Government of Western Australia), Evidence 3 February 1999, p. 60

6 Submission No. 25 (Government of South Australia) p. 4

The NFF believes that all regulation and legislative changes must reflect a commitment to an upgrade in quality standards of existing services, not merely a maintenance of the status quo.<sup>7</sup>

2.15 The Committee endorses these concerns. The Committee notes that the government's policy is to include in the USO a requirement to provide a 64kps ISDN service on demand to at least 96 per cent of the Australian population, and a comparable satellite service to the rest. The Committee considers that this policy should satisfy most of the concerns expressed in submissions to this inquiry.

2.16 There remains a concern about whether, without a price cap, this service will be affordable. The Communications, Electrical and Plumbing Union argued that -

‘...it is now possible for a service provider to make a service universally “available” while still pricing it out of reach of many consumers. This effectively robs the concept of the USO of all meaning.’<sup>8</sup>

2.17 In the Committee's view a ‘universal service’ must be not only available but it must also be affordable by its intended recipients. The Committee notes the government's present initiatives in this regard - a subsidised trial of satellite access; a policy commitment to subsidise the associated costs more widely; a \$70 million program to establish rural transaction centres in country towns and a \$36 million program to give all Australians local call access to the Internet.<sup>9</sup> The last two of these are provided for in the *Telstra (Transition to Full Private Ownership) Bill 1998*, to be funded from the next partial sale of Telstra. The Committee notes that the government is now reviewing the Telstra price cap regime under section 20 of the *Telstra Corporation Act 1991*, and has flagged for discussion the question of whether services such as ISDN should be price capped.<sup>10</sup>

#### *Cost of the Universal Service Obligation*

2.18 The Universal Service Obligation (USO) is carried out by Telstra, and Telstra's loss from providing mandated uneconomic services is partly reimbursed by other carriers so that all carriers share the cost in proportion to their share of the total telecommunications market. For several years the industry has been in dispute over what real cost of the USO is, and the ACA's determinations on this have been a compromise agreed to by the carriers. In 1996/97 the ACA determined the USO loss as \$251.56 million. In October 1998, using a new methodology, Telstra estimated its

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7 Submission No. 16 (National Farmers Federation), p. 6-7

8 Submission No. 19 (Communications, Electrical and Plumbing Union), p. 12

9 Alston the Hon. R, *Alston launches rural satellite Internet trial*, press release 27 November 1998; Liberal Party of Australia and National Party of Australia, *Communications: Making Australia Stronger*, Coalition policy statement September 1998.

10 Department of Communications, Information Technology and the Arts, *Discussion Paper - Telstra Retail Price Control Arrangements*, December 1998, p10

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actual 1997/98 USO loss as \$1.8 billion - about seven times greater than the previous figure. The ACA is now considering this claim.

2.19 In their submissions Telstra's competitors argued that Telstra's cost information needs to be more transparent:

If we have to pay our share of it, we should be able to see the bill and get a decent invoice for us to look over.<sup>11</sup>

2.20 The competitors believe that the ACA's deliberations on Telstra's claim would benefit from more consultation with them earlier in the assessment process:

The way the legislation states it at present, competitors do have access to Telstra's cost claims [but only] once the ACA has made its assessment. The fact of the matter is that our contribution to the ACA's process is really needed during the assessment process, not subsequent to it.<sup>12</sup>

We consider that the ACA's ability to fully assess Telstra's claim would be enhanced by a greater contribution from ourselves. We have already raised questions of the ACA's resources and the timeliness of what the ACA can do. The early release of this information would enable us to provide full input to the ACA.<sup>13</sup>

2.21 In any case, the competitors dispute the amount of the claim. For example:

We just cannot understand some of the figures that Telstra has come up with. Optus has already mentioned that in one area Telstra has costed out the delivery of one service at \$88,000. That is 20 times what we think the maximum amount would be to deliver a satellite service. In other areas where Telstra is looking at cable delivery, the maximum average cost for it is \$66,000. That is 40 times what we think wireless delivery would cost. These figures are just mind-boggling to us....<sup>14</sup>

2.22 This raises the obvious possibility of calling tenders to provide the Universal Service, so that carriers who think they can do it cheaper than Telstra have the chance to prove it. Several competitors expressed interest in doing so:

...here is a market of \$2.4 billion, according to Telstra's claim, and you have all your costs, reasonable losses, reimbursed. We believe that would be very attractive to a lot of businesses within Australia. This is a franchise that has just been allocated by government to Telstra and I endorse what

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11 A. Grant (AAPT Ltd), Evidence 3 February 1999, p. 10

12 A. Grant (AAPT Ltd), Evidence 3 February 1999, p. 10

13 C. Dalton (Vodafone Network Pty Ltd), Evidence 3 February 1999 p. 24

14 C. Dalton (Vodafone Network Pty Ltd), Evidence 3 February 1999 p. 21

previous speakers have said about wanting the opportunity to tender for that.<sup>15</sup>

2.23 Some submitters saw a link between competitive tendering and the quality (not merely the cost) of the service:

Competitive tendering is important not just so that the rest of the industry which shares the USO burden can fulfil that burden for a lesser amount, but also so that the savings that result and the ability of new entrants to fulfil the USO will mean that the USO will become a forward-looking concept rather than a static concept. That is one of the major concerns. It is not just the cost of funding it; it is what people in non-urban areas are getting for the standard telephone service.<sup>16</sup>

2.24 On the other hand, some were concerned about what would happen if a regional universal service provider failed, possibly leaving an area without any universal service at all. For example:

...we really do need to have some discussion on this issue of tendering out the USO and some discussion as to how it might happen, to ensure that Australians are not left without a telecommunications service.<sup>17</sup>

2.25 In this regard the Committee notes that under the Act, if at any time a carrier ceases to be a regional universal service provider for a particular area, and is not replaced by another regional universal service provider, the national universal service provider automatically becomes the universal service provider for that area (*Telecommunications Act 1997*, section 151). Thus there is no possibility of an area being left without universal service.

2.26 The government's policy is to investigate putting the Universal Service Obligation to tender, and the Department of Communications, Information Technology and the Arts (DOCITA) is currently preparing a discussion paper canvassing the issues involved.<sup>18</sup> The government is also considering its position on the funding of the USO in light of Telstra's \$1.8 billion claim. On the competitors' concerns about what they see as inadequate information on Telstra's costs, DOCITA comments:

...we are generally well disposed to the notion that, where possible, information that assists the development of a competitive market should be made available but these have to be balanced against considerations of

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15 C. Dalton (Vodafone Network Pty Ltd), Evidence 3 February 1999 p. 21

16 A. Grant (AAPT Ltd), Evidence 3 February 1999, p. 15. See also P. Skelton (Government of Western Australia), Evidence 3 February 1999 p. 59

17 W. Craik (National Farmers Federation), Evidence 3 February 1999, p. 34. See also H. Campbell (Consumers' Telecommunications Network), Evidence 3 February 1999, p. 36; R. Eason (Communications, Electrical and Plumbing Union), Evidence 3 February 1998 p. 50

18 J. Neil (Dept of Communications, Information Technology & the Arts), Evidence 3 February 1999 p. 70

commercial in confidence and people getting competitive advantage through getting access, say, through a USO provision. So there would be a balancing to be considered, but generally speaking if you want a departmental position, I think we could say that we are in favour of as much disclosure as is reasonable in a pro-competitive framework.<sup>19</sup>

2.27 Telstra has indicated that it has no objection to tendering the USO, and is sceptical of its competitors' claims about how cheaply they could perform the service.<sup>20</sup>

2.28 The Committee supports the government policy of tendering the Universal Service Obligation. This will provide the opportunity for competitors to prove their claims that Telstra's costs are unnecessarily high. Of course the process will need to be properly controlled to avoid the risks that some submitters feared (such as the risk of a provider defaulting). Contract periods would have to be short enough to preserve in providers the discipline that comes from knowing that they will soon have to compete for the next contract; and, at this time of rapid technological change, they should not lock in particular modes of provision for extended periods. In recent years there has been considerable experience of contracting out performance of subsidised public services: the Committee is confident that with this experience, and with adequate resources in the regulatory authorities, the matter can and will be managed properly to the benefit of both efficiency and service quality.

## **Recommendation 1**

**The Committee recommends that the government should proceed with the development of a Universal Service Obligation (USO) tendering scheme with a view to determining if there is a serious commitment from industry to participate in such arrangements.**

## **Customer Service Guarantee**

2.29 The Customer Service Guarantee Standard (CSG) was an initiative of the Coalition Government before the part sale of Telstra in 1997. It sets standards that carriage service providers must comply with in relation to waiting times for installation of services; waiting times for fault rectification; and appointment keeping. Default makes the provider liable for set damages - for example, the damages for failing to connect a standard telephone service by the set day, for each working day of delay after the first five, are \$40 per day.

2.30 The CSG's enabling provision has wide scope (the CSG can relate to any 'carriage services' - *Telecommunications Act 1997*, section 234), but the present

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19 J. Neil (Dept of Communications, Information Technology & the Arts), Evidence 3 February 1999 p. 71

20 G. Ward (Telstra), briefing to committee 15 February 1999 p. 2, 16 February 1999 p. 8



standard is defined to apply only to the standard telephone service terminating at a handset without switching functions, and certain enhanced call handling features (such as call waiting, call barring and calling number display). Thus it does not apply to mobile services, services that terminate at customer switching systems (PABX's and small business systems) or customer equipment (such as the handset). Details of the Customer Service Guarantee Standard are in Appendix 4.

2.31 A provision proposed in the present bills enhances the Customer Service Guarantee (CSG) by allowing the Australian Communications Authority to give directions to carriage service providers in relation to 'systemic problems' with a view to ensuring that they comply with CSG performance standards (*T(CPSS) Bill 1998*, clause 118). Disobeying such a direction could incur a penalty of up to \$10 million. As well, a new provision will enable the Australian Communications Authority (ACA) to make a determination requiring carriage service providers to give customers specified information about terms and conditions of service and about their rights as customers, including their rights under the Customer Service Guarantee (*TLA Bill 1998*, schedule 2). This is in line with a recommendations of this committee in its May 1998 report on the earlier *Telstra (Transition to Full Private Ownership) Bill 1998* (see Appendix 3).

2.32 Submissions supported the proposed 'systemic problems' provision, but had various other concerns and suggestions on how they thought the CSG should be strengthened:

- The Government of Western Australia argued that the scope of the services covered by the CSG should be widened - for example, to include mobile service, customer equipment such as the handset, payphones and directory assistance.<sup>21</sup> The Communications, Electrical and Plumbing Union pointed out that the proposed 'systemic problems' provision is limited by the limited scope of the CSG itself.<sup>22</sup>
- The Australian Telecommunications Users Group argued that the CSG should include standards for operational performance as well as installation, fault rectification and appointment keeping.<sup>23</sup>
- The National Farmers Federation (NFF) argued that the actual standards are inadequate, particularly the potential 12 months wait for connection in rural areas. The NFF argued strongly that '...the current CSG should be altered to reflect the same quality of service and timeframes for all Australians.'<sup>24</sup>

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21 Submission no. 9 (Government of Western Australia), p. 6; Submission No. 12 (Consumers Telecommunications Network), p. 15; Submission No. 19 (Communications, Electrical and Plumbing Union), p. 10

22 Submission No. 19 (Communications, Electrical and Plumbing Union), p. 10

23 Submission No. 5 (Australian Telecommunications Users Group), p. 7

24 Submission No. 16 (National Farmers Federation), p. 7

It seems a bit odd that it takes three days to repair a fault in remote areas and 12 months to install a phone in the same areas.<sup>25</sup>

- The CSG provides that a carriage service provider is not liable for delays caused by faults in a carrier's network. Macquarie Corporate Telecommunications pointed out the difficulty that the carrier is not liable either. Thus (Macquarie argued) there is no incentive for the carrier (Telstra) to repair a fault associated with a Macquarie customer; whereas Telstra would be liable if the customer was a direct customer of Telstra. This would discourage people from becoming customers of Macquarie.
- Submissions argued that the damages are not high enough to counteract the possible savings from cutting staff at the expense of service - particularly in country areas.

...there is still a concern that carriers may opt to pay the penalty rather than install the phone.<sup>26</sup>

Just providing a payment for every day's rental that the phone is out of order when the phone is not repaired is no substitute for actually having the ability to do your business or the ability to actually make contact. It is much more important for our constituents to have the phone.<sup>27</sup>

2.33 Telstra's compliance with the CSG standard is described in the ACA's recent *Telecommunications Performance Report 1997-98*. From January to June 1998 Telstra's success in connecting new services within the set times was mostly in the range 80 to 90 per cent depending on location, and slightly higher for rural and remote than for urban customers (this does not mean faster connections in rural and remote areas, but merely better success at meeting more liberal deadlines). Telstra's success in clearing faults within the set times was mostly in the range 50 to 90 per cent depending on location, and significantly worse for rural and remote than for urban customers. In respect of appointment-keeping the ACA reported that -

...Telstra has not sought to comply with the CSG Standard... While the ACA is aware of Telstra's systemic breach of the CSG Standard in this regard, the ACA currently has no power, other than that of persuasion, to act on this breach.

2.34 An ACA survey found that 55 per cent of small businesses and 45 per cent of residential households were aware that they are eligible for a rebate on their telephone rental for a breach of the CSG standards.<sup>28</sup>

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25 W. Craik (National Farmers Federation), Evidence 3 February 1999, p. 33

26 Submission No. 9 (Government of Western Australia), p. 7

27 W. Craik (National Farmers Federation), Evidence 3 February 1999, p. 28

28 Australian Communications Authority, *Telecommunications Performance Report 1997-98*, p. 20ff

2.35 The ACA has recently reviewed the Customer Service Guarantee Standard, in accordance with a request from the Minister to review the Standard with a view to tightening it where practicable. The review considers most of the matters mentioned above. Some key findings and recommendations are:

- The standard should apply to standard telephone services with up to five terminating lines. This would protect small businesses who are not now covered.
- It is not necessary or justifiable to include additional carriage services (such as mobiles or Internet access services) in the standard, because in these areas there is effective competition and little evidence that poor service is a problem.
- It would be premature to broaden the scope of the standard to include additional customer services (such as complaint handling, billing, disconnection), in light of the principle of encouraging industry self-regulation.
- The relationship between the CSG and the Universal Service Plan should be clarified given the concern that current linkages place Telstra in a position where it is driving an industry standard. [At present some of the CSG standards are imported by reference from Telstra's Universal Service Plan.]
- Some definitions (such as 'not readily accessible to infrastructure') should be clarified.
- Some of the deadlines for service should be tightened.
- The problem between carriage service providers and carriers [described by Macquarie Corporate Telecommunications, page 19 above] should be tackled by an industry code.<sup>29</sup>

2.36 The Government has accepted the ACA's recommendations, though implementation of some recommendations will be delayed to allow the industry to prepare. The process of drafting a new CSG direction from the Minister to the ACA will include further consultation with industry and consumer groups.<sup>30</sup>

2.37 In view of this the Committee will make no more detailed comments here. The Committee affirms the importance of ensuring that the Customer Service Guarantee is a genuine spur to satisfactory service, so that its damages are not simply treated as an expense associated with economies of staffing. In this regard the proposed power and penalties in the *T(CPSS) Bill 1997* relating to 'systemic faults' are an important initiative which, in the Committee's view, answers the concern that service providers might find it cheaper simply to pay the damages than to provide the service.

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29 Australian Communications Authority, *Review of the Telecommunications Customer Service Guarantee - report to the Minister for Communications, Information Technology and the Arts*, October 1998, p. 4ff

30 Submission No. 10 (Department of Communications, Information Technology and the Arts), p. 17

## Other measures in the Telecommunications Act

### *Untimed local calls*

2.38 Carriage service providers providing a standard telephone service must offer untimed local calls (voice and data calls for residential/charity customers; voice only for business customers). This duty does not apply to mobile or satellite services unless it is being supplied to fulfil the Universal Service Obligation. A 'local' call is one that starts and finishes in the same call zone. The default call zones are those in force at 30 June 1991, though a carrier may nominate different zone boundaries with the consent of the customer. (*Telecommunications Act 1997*, section 222ff).

2.39 Price caps under section 20 of the *Telstra Corporation Act 1991* limit Telstra's charges for local calls to 25 cents (40 cents from payphones). Average charges for local calls in country areas must be no more than in the capital cities (the 'local call pricing parity scheme'). The present price cap regime (which includes these and various other caps) expires on 30 June 1999, and the government is now considering its future. The Department of Communications, Information Technology and the Arts released a discussion paper on this in December 1998 calling for comment by 12 March 1999. The government's policy is to maintain price caps, including the 25c/40c local call cap and the local call pricing parity scheme.<sup>31</sup>

2.40 Section 226 of the *Telecommunications Act 1997* mandates 'comparable benefits' for customers outside standard zones (ie in remote areas). These customers (about 37,000) are given a 'pastoral call rate' of 25c for 4.5 minutes for calls to their nearest community service town, and a rebate of up to \$160 per year on pastoral call charges.<sup>32</sup>

2.41 The Western Australian Government regards the present arrangements as inadequate for the needs of rural and remote customers:

...A fixed rebate to such customers [outside standard call zones] was a welcome short-term measure but quite inadequate long term response... Untimed local call access should be provided to all customers in the current extended charging zones, in the same manner that local calls are provided to customers in standard zones.... The need is highlighted by the fact that customers in extended zones do not have the same alternatives to the telephone as are available to standard zone customers. For example, extended zone customers cannot use as a substitute for the telephone call a five minute walk or drive to the called party, be it a shop, school, doctor, post officer or neighbour... Much of regional and remote Western Australia is served by a widely dispersed network of very small towns, rather than a

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31 Liberal Party of Australia and National Party of Australia, *Communications: Making Australia Stronger* [Coalition policy statement] September 1998, pp.2,10; Department of Communications, Information Technology and the Arts, *Discussion Paper - Telstra Retail Price Control Arrangements*, December 1998

32 Submission 10 (Department of Communications, Information Technology and the Arts), p. 16

smaller number of large regional centres. Consequently, not all extended zones may have a town that can provide even the limited array of services listed above.<sup>33</sup>

2.42 The WA Government suggested that ‘the universality of access to untimed local calls could be treated as part of the Universal Service Obligation regime.’<sup>34</sup> The National Farmers Federation (NFF) argued that the zone structure should be revisited as ‘a matter of urgency’ with a view to increasing zone boundaries and reducing the number of zones. The NFF doubts that the present zones are appropriate in view of the decline of services in rural and regional communities; the historic inertia in zoning decisions; improvements in network technology and cost reductions, making distance less relevant to costs; and the fact that ‘Telstra is acting as judge over its own decisions with regard to zonal charging arrangements’. The NFF called for a public inquiry into call zones and related issues with recommendations to be implemented by 1 October 1999.<sup>35</sup> The Consumers’ Telecommunications Network recommended that the Telecommunications Act should provide for declaration of local call zones by regulation, providing this does not have the effect of increasing call costs for any group of residential customers.<sup>36</sup>

2.43 Telstra, responding generally to such suggestions, pointed out that Australia has among the largest untimed local call zones in the world. Telstra said that -

The principles behind Telstra’s local and long distance calling structures have been the subject of many inquiries over the years - as I recall, they have been subject to at least two or three parliamentary inquiries. Certainly Telstra continues to review the appropriateness of its call zones and its long distance charging arrangements.<sup>37</sup>

2.44 As well, Telstra argued that any increase in local calling areas could only be done in conjunction with appropriate rebalancing of charges, which would have losers as well as winners overall:

Abolishing local call zones for a single rate long distance charge would mean that some customers would be likely to incur an increased price on call so others could enjoy a significantly reduced price. Pricing differentiation between competitors would also be constrained under this type of scenario where they could not undercut a local call price. Therefore,

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33 Submission No. 9 (Government of Western Australia), p. 2-3

34 Submission No. 9 (Government of Western Australia), p. 3

35 Submission No. 16 (National Farmers Federation), pp. 9-10, quoting House of Representatives Standing Committee on Expenditure, *Ringling in the Change - Telecom’s zonal charging policies*, 1984. Also W. Craik (National Farmers Federation), Evidence 3 February 1999, p. 33; P. Skelton (Government of Western Australia), Evidence 3 February 1999, p. 63

36 Submission No. 12 (Consumers’ Telecommunications Network), p. 16

37 G. Ward (Telstra), briefing to committee 15 February 1999, p. 6

increasing a social benefit in one area has implications for the shape of competition under other aspects of the current regulatory regime.<sup>38</sup>

2.45 The Committee notes the government's policy initiatives on this issue:

- \$150 million from the sale of Telstra will be allocated over three years to upgrade infrastructure in remote Australia. Following this all calls within an extended zone will be untimed local calls. The infrastructure upgrade is necessary to handle the expected increase in traffic.<sup>39</sup>
- The pastoral call rate will be replaced by a new preferential rate of 25c for 12 minutes, which will benefit over 700,000 Australians who live in extended zones or community service towns.<sup>40</sup>

2.46 The Committee considers that these initiatives should largely answer the concerns expressed. However the Committee agrees that the call zone structure should be regularly reviewed having regard to demographic and technological changes. The present default call zones, for the purposes of the law mandating untimed local calls, are those in use by Telstra at 30 June 1991 (*Telecommunications Act 1997*, section 227). Considering the speed of technological change, it is not self-evident that these are still appropriate; but without appropriate call zones the public policy behind mandatory untimed local calls does not achieve its purpose. The Committee agrees with the National Farmers Federation that the call zone structure should be publicly reviewed as a matter of public policy, whether or not it is also continuously reviewed by Telstra for Telstra's purposes.

## **Recommendation 2**

**The Committee recommends that the government should review the appropriateness of the standard call zones, having regard to demographic and technological change.**

### *Emergency service*

2.47 Carriage service providers must give their customers free access to an emergency call service. Where the carriage service provider and the operator of the emergency call service are different parties, the terms and conditions of the service are as agreed between them, or failing that, as arbitrated by the ACCC. Performance

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38 Submission No. 21 (Telstra), p. 12

39 Liberal Party of Australia and National Party of Australia, *Communications: Making Australia Stronger* [Coalition policy statement] September 1998, p. 15; Alston the Hon. R. & Fischer the Hon. T., *Government extends untimed local calls to remote Australians*, press release 10 July 1998

40 Liberal Party of Australia and National Party of Australia, *Communications: Making Australia Stronger* [Coalition policy statement] September 1998, p. 16

standards are set out in an ACA determination. At present Telstra is the national operator of emergency call services.<sup>41</sup>

2.48 Several submissions were concerned that the integrity of the emergency call service should not be compromised by commercial considerations. They noted recent mishaps in attending to emergency calls from mobiles where the location is uncertain (nearly 20 per cent of all emergency calls are now from mobiles):

...you would have picked up the foul-up of mobile calls to the 000 number over Christmas. I think that occurred on two occasions. An incorrect location was identified and the emergency service was sent to the wrong place.<sup>42</sup>

2.49 The Australian Telecommunications Users Group (ATUG), supported by the Bureau of Emergency Services (Telecommunications), argued that mobile origin location information should be available to reduce these problems. ATUG argued that this is technically possible, but has been held up by the lack of motivation of the carriers:

Much work has been done over the past two years to develop a standard approach to Mobile Origin Location Information... but with very limited success. Mobile carriers do not appear to be motivated to agree to a standard approach.<sup>43</sup>

2.50 Another concern is the lack of an explicit funding mechanism for the emergency service. The Consumers' Telecommunications Network (CTN) is concerned that '...there is a perception that if Telstra becomes fully privatised there will be a diminishing commitment to quality of 000 service provision as this is not a potential source of revenue or profit.' CTN urged that emergency call costs should be subject to independent audit and included in the Universal Service Obligation arrangements.<sup>44</sup>

2.51 The government will monitor Telstra's progress on the provision of geographical identification.

2.52 The Committee agrees that the integrity of the emergency call service is vital. Whether the service is best maintained by making it part of the Universal Service Obligation, or by current arrangements in which the cost is largely absorbed by Telstra, is a matter for the government to consider. It is an essential service mandated

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41 *Telecommunications Act 1997*, section 264ff; Australian Communications Authority, *Telecommunications (Emergency Call Service) Determination 1997*, *Telecommunications (Emergency Call Person) Determination 1997*

42 A. Horsley (Australian Telecommunications Users Group Ltd), Evidence 3 February 1999, p. 2

43 Submission No. 5 (Australian Telecommunications Users Group), p. 8. Submission No. 24 (Bureau of Emergency Services Telecommunications), p. 1

44 Submission No. 12 (Consumers' Telecommunications Network), p. 17; also Submission No. 24 (Bureau of Emergency Services Telecommunications), p. 1

for social policy reasons quite analogous to the present Universal Services; to put it in the Universal Service Obligation would make all carriers contribute to the costs in proportion to their share of total telecommunications business. Whatever the funding mechanism, the essential thing is that performance standards are clear, adequate, and enforced, so as to reduce the incidence of mishaps like those mentioned above.

2.53 The Committee agrees that given the increasing use of mobiles, the emergency service should include mobile location information. The Committee notes evidence from the Department of Communications, Information Technology and the Arts on current progress in this regard:

Telstra has indicated in its recent proposals to make changes to its emergency call handling arrangements so that it would provide, by I think April of this year, the stated origin of those [mobile] calls. There is work occurring in the United States in relation to improving the ability of mobile networks to identify the location of the mobile caller. In addition, the Australian Communications Industry Forum, which is an industry self-regulatory body, is working on what they call mobile location indicators, or MOLI. Those provisions or those arrangements are used not only for the emergency call handling arrangements but for some other commercial services operated by carriers. When those capabilities are available then the ACA would, under its obligations with the emergency handling arrangements, need to consider whether to incorporate such obligations into its determination about how emergency calls should be handled.<sup>45</sup>

2.54 The Committee notes that the ACA is currently deliberating on a draft new emergency call standard, which (after consultation with stakeholders as required by the Act) is expected to be in operation by the middle of 1999.<sup>46</sup>

### **Recommendation 3**

**The Committee recommends that the government should monitor the performance of carriers in this area and make sure that mobile location indicators for the emergency call service are appropriately implemented.**

#### *Directory assistance*

2.55 A carriage service provider who supplies a standard telephone service must provide directory assistance (*Telecommunications Act 1997*, schedule 2, clause 6). Under present price cap arrangements Telstra's directory assistance service must be free. The Committee is not aware of any intention to change the current directory assistance arrangements.

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45 J. Cameron (Department of Communications, Information Technology & the Arts), Evidence 16 February 1999 p. 26

46 Pers. comm. Frances Wood (Australian Communications Authority), February 1999



2.56 The Communications, Electrical and Plumbing Union argued that there has been a 'deterioration of performance' in the service in recent times, and that Telstra has made no attempt to resource the service sufficiently to meet the government's policy that 90 per cent of calls should be answered within 10 seconds.<sup>47</sup> The ACA reports that responses within 10 seconds have averaged around 53 per cent since monitoring started, but improved to 60 per cent in the last quarter of 1997-98 after work practice changes.<sup>48</sup> Use of the service has increased greatly in recent years, and some argue that it is being over-exploited because it is free:

We supported a Telstra proposition last year that a reduction of \$5 to \$10 in line rental and a charge for directory services was not unreasonable - that is, it was a cost neutral transfer of arrangements... basically business customers abuse the directory service - they do not read the books... we became convinced by the Telstra argument because there was a blow-out in the use of directories, and somewhere along the line it had to be controlled.<sup>49</sup>

2.57 The Department of Communications, Information Technology and the Arts stresses that any proposal to charge for directory assistance requires a report from the ACCC and a decision by the minister, and considers that these arrangements 'provide flexibility and scope for community input via the ACCC report.' The arrangements are not dependent on public ownership of Telstra.<sup>50</sup>

#### *Number portability*

2.58 The ability of customers to keep their telephone numbers while changing service providers is a critical factor in promoting competition and improving customer service. The *Telecommunications Act 1997* provides that the ACCC may direct the ACA to provide for number portability in the ACA's numbering plan for carriage services (*Telecommunications Act 1997*, sections 455(5), 458(1)).

2.59 The ACCC made such a direction in September 1997 in respect of local, freephone (1800) and local rate (13) services. In March 1998 the ACA fixed a deadline of 1 January 2000 for full local number portability. No date has yet been set for portability of freephone and local rate numbers. The ACCC has made no direction in relation to mobile services, but has asked the ACA to conduct further research on the technical options.<sup>51</sup> The ACA's report is now being considered by the ACCC, which must now make a decision whether to direct the ACA to provide for mobile number portability.<sup>52</sup>

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47 Submission No. 19 (Communications, Electrical and Plumbing Union), p. 10

48 Australian Communications Authority, *Telecommunications Performance Report 1997-98*, pp. viii, 64

49 A. Horsley (Australian Telecommunications Users Group Ltd), Evidence 3 February 1999, p. 6

50 Submission No. 10 (Department of Communications, Information Technology and the Arts), p. 23

51 Australian Communications Authority, *Telecommunications Performance Report 1997-98*, pp. 148-9

52 Submission No. 10 (Department of Communications, Information Technology and the Arts), p. 36

2.60 Several submissions to this inquiry complained that the ACA's action on number portability has been too slow:

...we are disappointed that the ACA has agreed to a delay in number portability for complex services because, quite frankly, we see that as a disaster.<sup>53</sup>

2.61 The Australian Telecommunications Users Group (ATUG) argued that, at minimum, all carriers should be capable of providing portable numbers for all services offered by them by 30 December 1999. ATUG also recommended 'fresh look provision' whereby, for a period after introduction of portability, customers with long-term agreements should be able to terminate them without liability.<sup>54</sup>

### **Services for people with disabilities**

2.62 The *Telecommunications Act 1997* has several special provisions for people with disabilities. The definition of 'standard telephone service' includes equivalent functionality for people with disabilities (for example, communication by teletypewriter for the deaf). The Universal Service Obligation includes supply of the necessary customer equipment. The National Relay Service, funded by a levy on carriers, provides persons who are deaf, or who have a hearing and/or speech impairment, with access to a standard telephone service on terms comparable to other people's access. (sections 17, 142, 221A ff)

2.63 However, the Telecommunications & Disability Consumer Representation Project pointed out several sections of the *Telecommunications Act 1997* where, in its opinion, extra reference should be made to people with disabilities. These relate mostly to consultation on industry codes and standards. For example, the ACA (through the Australian Communications Industry Forum) is drafting a Disability Standard under section 380 of the Act; but the enabling provision does not include any requirement that appropriate representatives of the disability sector should participate.<sup>55</sup> According to the Telecommunications & Disability Consumer Representation Project, the matter is important because:

Very often the telephone is of more benefit and necessity to those of us with disabilities than to people generally. However, the changing nature of technology often makes it more difficult to use telecommunications products and services. Therefore, it is unacceptable to us that sometimes when products and services are developed they are not readily usable by people with disabilities.<sup>56</sup>

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53 A. Horsley (Australian Telecommunications Users Group Ltd), Evidence 3 February 1999, p. 7. Similarly M. Krishnapillai (Macquarie Corporate Telecommunications), Evidence 3 February 1999, p.20

54 Submission No. 5 (Australian Telecommunications Users Group Ltd), p. 3

55 Submission No. 3 (Telecommunications & Disability Consumer Representation Project), p. 5

56 W. Jolley (Blind Citizens Australia - Telecommunications & Disability Consumer Representation Project) Evidence 3 February 1999 p. 54

2.64 Another point of concern was section 113 of the Act (examples of matters that may be dealt with by industry codes and standards). The Telecommunications & Disability Consumer Representation Project argued that even though these are only examples, reference to disabilities should be explicit:

I have found in the past that, with legislation that gives even indicative lists, people tend to look at the list of examples, even though it says ‘without limiting’, and that is where it stays; they develop the codes and the standards associated with what is on the list, and that is where it stops.<sup>57</sup>

2.65 The Project suggested amendments to sections 113, 117, 382 and 593 to make references to disabilities explicit.

2.66 The Committee is sympathetic to these concerns, but considers that they are adequately dealt with in the Act as it stands. As noted above, the Act defines the standard telephone service to include equivalent functionality for people with disabilities. In addition, the *Disability Discrimination Act 1992*, which provides for non-discrimination on grounds of disability, applies to the telecommunications industry generally as well as to other industries.

2.67 In relation to the particular sections of the Act raised in evidence, the Committee comments:

- Section 113 (examples of matters that may be dealt with by industry codes) lists topics relevant to *all* customers (for example, privacy; complaint-handling; debt collection). The list is not meant to be exhaustive. To mention particular groups (disabled, indigenous, non-English-speaking, rural, elderly...?) could lead to a very long list, which would still no doubt have omissions, and would be even more likely to be wrongly regarded as exhaustive. The Committee considers that interpreting section 113 appropriately having regard to minority needs is properly a matter for the discretion of the ACA. The Committee notes that before registering an industry code the ACA must be satisfied that at least one body representing consumers has been consulted (section 117(1)(i)).
- Similar considerations apply to section 593 (which deals with the minister’s discretion to fund a consumer body to represent its interests).
- Before making a disability standard under section 380 the ACA must consider the representations of ‘interested persons’ (section 382). This would naturally need to include disability groups.

### **Comment**

2.68 All the above suggestions for further improving guaranteed services raise policy questions which have no *logical* connection to the proposed sale of Telstra

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57 E. Casling (Blind Citizens Australia - Telecommunications & Disability Consumer Representation Project), Evidence 3 February 1999 p.58

(since the regulatory regime applies to all without regard to ownership). Indeed, many of these suggestions were made by parties who have no objection in principle to the sale of Telstra. For these suggestions to be relevant in argument against the full sale of Telstra relies on the following propositions:

- a fully private Telstra will more aggressively pursue profit at the expense of customer service; so stronger consumer safeguards are necessary, if not to improve, at least to maintain guaranteed minimum services; and/or
- after full sale it will be more difficult for the authorities to ‘raise the bar’ on Telstra.

2.69 The Committee does not accept these propositions. The various standards of mandated service will apply to a fully private Telstra no more and no less than they apply to the present partly private Telstra. Whether Telstra meets a standard is a matter for the regulators to monitor and enforce; and the Committee certainly agrees that there must be sufficient resources in the regulatory authorities, and strong enough penalties, to ensure that Telstra *does* meet the standards. The Committee notes that the *Telecommunications Act 1997* allows for civil penalties of up to \$10 million for carriage service providers contravening the Act (sections 570, 101, schedule 2 section 1).

2.70 Whether a standard should be raised is a separate policy question. The point for this inquiry is that if and when the government wishes to raise a standard, the bills confer ample power on it to do so, regardless of whether Telstra is public or private. To take the matter which was of most concern in submissions to this inquiry: the minister’s power to prescribe universal services, and to control charges for them, is arguably ample power to assure an adequate level of modern telecommunications in country areas.

2.71 Nevertheless, the Committee affirms that the matters raised above are very important. In particular, the Committee fully endorses the need for adequate and affordable data services in country areas, where their usefulness is arguably greatest. But this and the other matters are matters for the government to consider (as indeed the government is considering many of them now), not for the present bills.

2.72 In this regard, the Committee notes the government’s policy commitments to maintain and strengthen the Universal Service arrangements as necessary; to maintain price caps; to put the Universal Service Obligation out to tender; to include ISDN service or a comparable 64kps service in the Universal Service Obligation;<sup>58</sup> and to ensure local call access to the Internet for all Australians.<sup>59</sup> We note also the ACA’s

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58 This follows a report on the matter by the Australian Communications Authority which was required by section 141(2) of the *Telecommunications Act 1997*. Australian Communications Authority, *Digital Data Inquiry - public inquiry under section 486(1) of the Telecommunications Act 1997*, August 1998

59 Liberal Party of Australia and National Party of Australia, *Communications: Making Australia Stronger* [Coalition policy statement] September 1998

recent review on tightening the Customer Service Guarantee, the recommendations of which the government has accepted.<sup>60</sup> We note the new pro-competition measures in the present bills, detailed in chapter 3. We note the ACCC's recent draft declaration (December 1998) that will allow competitors easier access to the Telstra-owned local loop.

2.73 The Committee is satisfied that the legislation and proposed amendments provide appropriate consumer protection. The measures and consumer safeguards described in this chapter are not the actions of a government or regulatory authorities that are going easy on Telstra. They show the continuing commitment of the government and the authorities to assure mandated levels of consumer service regardless of the ownership of Telstra.

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60 Australian Communications Authority, *Review of the Telecommunications Customer Service Guarantee - report to the Minister for Communications, Information Technology and the Arts*, October 1998; Submission No. 10 (Department of Communications, Information Technology and the Arts), p. 17