

CHAPTER 2

SUMMARY OF EVIDENCE RECEIVED

2.1 168 submissions were received from a wide range of individuals and groups, including private citizens, community and consumer organisations, farmer associations, local councils, business groups, trade unions, telecommunication companies, investment managers and governments.

2.2 Views expressed in the submissions and at the hearings ranged from those who were opposed to the full sale of Telstra under any circumstances; those who could accept the sale but only if rural telecommunications were brought up to, and could be guaranteed to be maintained into the future at, standards comparable with those in urban areas; those who felt that structural impediments to competition needed to be removed before Telstra was fully privatised; through to those who considered that the current regulatory regime, enhanced by the future proofing provisions in the Bill, were sufficient to protect consumers and promote competition.

2.3 Most of those opposed to passage of the Bill under any circumstances argued that a fully privatised Telstra would put profits and shareholder value ahead of the interests of consumers, particularly in unprofitable rural and regional Australia. They linked ownership with control and doubted that future governments could be relied upon to regulate a fully privatised Telstra in the public interest. Concerns were also expressed by some about loss of jobs, loss of revenue from dividends and Telstra falling into foreign hands. As well as individual submitters a number of community organisations, such as the Country Women's Association, the Combined Pensioners and Superannuants Association of NSW, the Australian Council of Social Service and the National Rural Health Alliance, as well the Communications, Electrical and Plumbing Union (CPSU) and the Community and Public Sector Union, expressed total opposition to the full sale. The NSW and Queensland Governments also opposed the full sale, as did Mr Peter Andren MP and Mr Tony Windsor MP, the Independent Federal Members for Calare and New England respectively. The position of the Local Government and Shires Associations of NSW was fairly typical of the views of submitters concerned about the impact on rural Australia:

The Associations maintain that service standards have not improved sufficiently to sanction the sale of the remainder of Telstra. We are further concerned that the sale of Telstra will remove political suasion over its conduct and allow it to behave in a monopolistic manner in regional Australia. ... In the absence of incentives or binding obligations, commercial reality would dictate that Telstra withdraw from unprofitable rural and regional markets. ... It would be naive to think that so-called

future proofing strategies will guarantee that relativity with urban services is maintained in perpetuity.¹

2.4 Most farmer and small business groups acknowledged that significant improvement had been made to telecommunications in rural Australia and did not oppose the full sale. They also generally welcomed the funding initiatives of the Government aimed at enhancing telecommunications in rural and regional Australia. They argued, however, that more still needed to be done to bring rural and regional services up to urban standards and to guarantee that this equivalence of standards was maintained into the future. The National Farmers Federation (NFF), the NSW Farmers Association, the Western Australian Farmers Federation, the Central Macquarie Business Group and the Small Enterprise Telecommunications Centre Ltd (SETEL) expressed views along these lines. The NFF stated that levels of service in rural and regional Australia would need to be equivalent to those in urban areas before considering the further sale of Telstra, but stressed that significant progress continued to be made to rectify these inequities.²

2.5 SETEL said that it was important not to ignore the interests of small businesses in urban Australia:

SETEL seeks to ensure that adequate safeguards are in place, at the time of sale of the remaining Commonwealth shareholding in Telstra, to ensure that not only services to small businesses in regional, rural and remote Australia are protected, but that services to those small businesses in urban Australia are also protected.³

2.6 Telstra's competitors, AAPT, Optus, Primus Telecom and Comindico, as well as the Competitive Carriers Coalition and the Australian Telecommunications Users Group (ATUG), were not opposed to full privatisation, but shared concerns about Telstra's market dominance and considered that structural and competition issues needed to be addressed before proceeding. AAPT considered that selling Telstra was very important for creating a competitive environment and that, 'It does not make sense having firms like AAPT competing against the Australian government'. AAPT went on to say that:

Our contention is that the focus needs to be on getting the government out of ownership and focussing on competition. Our concern is that the bill is largely deficient in that regard because it does not actually address what powers and regulators the government might need if competition stalls.⁴

2.7 Optus likewise considered that competition was the key issue:

1 Submission No. 44 (Local Government and Shires Associations of NSW), p. 3.

2 Mr Mark Needham, *Proof Committee Hansard*, 2.10.03, p. 43.

3 Submission No. 139 (SETEL), p. 3.

4 Mr David Havyatt, *Proof Committee Hansard*, 30.9.03, p. 89.

The full privatisation of Telstra is likely to result in Telstra being a more aggressive competitor. While Optus does not consider that this provides a rationale in opposition to full privatisation, it does mean that there needs to be increased focus by the government on both the structure of Telstra, and the operation of the regulatory regime.⁵

2.8 ATUG stated that there had been gains for users from competition and there were important consumer safeguards in place, but suggested that with regard to future proofing governments should be required to give explanations for not accepting particular recommendations arising from the independent review process and that the review period should be less than five years because of the rapid pace of technological change. ATUG did not think that government ownership acted as a brake on Telstra's use of market power and argued for stronger regulatory powers for the Australian Competition and Consumer Commission (ACCC) and the Australian Communications Authority (ACA).⁶

2.9 Unqualified support for the Bill came from JP Morgan Australia and ABN AMRO Rothschild. ABN AMRO Rothschild argued that:

The combination of the full privatisation, a rigorous and transparent regulatory regime and a competitive market place will provide maximum benefits to Australia and its citizens. Australia has the latter two elements: a leading regulatory regime and a highly competitive market by world standards. However the final element is lacking.⁷

2.10 Several individual submitters also supported full privatisation. Mr Olson, a lawyer from Parkes, said that Telstra only began to improve after it was partially privatised, pointing out that governments regulate all the time and do not need to own something to regulate it.⁸

Satisfaction with standards of service and employment implications

2.11 The Committee noted that among those opposed to the full sale of Telstra, either now or into the future, there was general satisfaction with the standard of basic telephone services. Technological advances, however, had created an expectation of more sophisticated services, particularly in relation to mobile telephone coverage and fast internet and broadband access. In respect of internet access the Committee noted a level of dissatisfaction with the 19.2 kbps dial up Internet speed licence condition. The Committee stressed that this was only a minimum baseline, as confirmed by

5 Submission No. 165 (Optus), p. 3.

6 Ms Rosemary Sinclair, *Proof Committee Hansard*, 30.9.03, pp. 54-58.

7 Submission No. 137 (ABN AMRO Rothschild), p. 3.

8 Mr Mark Olson, *Proof Committee Hansard*, 1.10.03, p. 51.

Mr Estens in his evidence, and that it was already being lifted.⁹ With regard to the future proofing provisions of the Bill, concerns seemed to be less with the adequacy of existing and proposed consumer protection safeguards than with the willingness of governments to enforce the rules once Telstra was fully privatised.

2.12 One exception to this general level of satisfaction with the current standard of basic services was the CEPU. The CEPU claimed that job cuts and reductions in capital expenditure on infrastructure that accompanied partial privatisation had led to a deterioration in customer service and network maintenance.¹⁰ The Committee could find no evidence to support the Union's claims. In fact, the ACA's Telecommunications Performance Monitoring Bulletin for the June 2003 quarter shows that rural and remote CSG fault rectification timeframe performance improved during the quarter and continues to exceed 90 per cent. For the period January-August 2003 less than one telephone service in every 100 experienced one or more faults per month and on average 99.06 per cent of all Telstra's telephone services did not experience a fault over that period. Likewise, Telstra's performance against CSG connection timeframes continues to exceed 90 per cent at the national level.¹¹

2.13 On the basis of this evidence, the Committee concluded that the CEPU claims were motivated by concerns over staffing levels rather than over any actual deterioration in services. On the issue of employment, evidence submitted to the Committee indicated that while there had been reductions in Telstra's staff numbers, employment in the telecommunications industry as a whole had increased with the entry of new players into the market and it was highly probable that many of those who had ceased employment with Telstra had been picked up by competitors. According to ABN AMRO Rothschild, '... the employment levels in the Australian telecommunications industry have risen since the partial privatisation of Telstra.'¹² The observation that there had been a transfer of employment, '... is supported by the overall statistics, which show a total increase in employment in the industry overall – the logical conclusion being that to the extent there has been attrition in one entity then those people have either moved or absorbed more employment from other industries'.¹³ ABN AMRO Rothschild was also able to demonstrate from overseas examples that privatisation and competition in the telecommunications industry would be likely to lead to reduced costs and increased profits across the economy, providing an impetus for growth and employment in the economy as a whole.¹⁴

9 Mr Dick Estens, *Proof Committee Hansard*, 1.10.03, p. 35.

10 Submission No. 119 (CEPU), pp.2, 22 and 26-27. Mr Shane Murphy, *Proof Committee Hansard*, 1.10.03, p. 13.

11 ACA, Telecommunications Performance Monitoring Bulletin, Issue 25, p. 3.

12 Submission No. 137 (ABN AMRO Rothschild), p. 16.

13 Mr Steve McCann, *Proof Committee Hansard*, 30.9.03, p. 101.

14 Submission No. 137 (ABN AMRO Rothschild), p. 16.

2.14 The Community and Public Sector Union (CPSU) claimed that under the Bill over 20,000 female Telstra employees would lose paid maternity leave entitlements in a fully privatised Telstra. In its evidence Telstra said that the company had:

... personally communicated to all our staff some weeks ago, when this matter first arose, that it was Telstra's intention to maintain the existing maternity leave arrangements.

Telstra added that this would be for new employees as well as current employees.¹⁵

2.15 Some submitters expressed concern that a fully privatised Telstra would fall into foreign hands. These concerns have no basis in fact and are demonstrative of a general ignorance of the foreign ownership restrictions that apply to Telstra, which are unaltered by this Bill. Under the Bill, Telstra will continue to be an Australian owned and controlled corporation. Aggregate foreign ownership cannot exceed 35 per cent and no foreign individual or entity may own more than 5 per cent of Telstra. Telstra's Head Office and base of operations must remain in Australia and its Chair must be an Australian citizen.¹⁶

The benefits of privatisation

2.16 In their joint submission, DCITA and DOFA said that the Government's stated position in relation to the sale of its remaining shareholding in Telstra is that:

- in a modern and dynamic telecommunications environment, it is competition that drives new services and lower prices, and regulation that provides the safeguards to protect consumers;
- Telstra is subject to an effective regulatory framework that protects consumers and promotes competition. The Government's reform of the telecommunications sector has encouraged greater competition and given Australians access to a wide range of high quality, innovative and low cost telecommunications services;
- the sale of the Government's remaining shareholding will allow it to focus on regulatory issues and continue to allow Telstra to focus on commercial issues;
- it would not proceed with any further sale until it was satisfied that arrangements were in place to deliver adequate services to regional Australia. With the announcement of a comprehensive response to the Regional Telecommunications Inquiry, the Government is now satisfied that arrangements are in place for the delivery of adequate telecommunications services; and

15 Mr Bill Scales, *Proof Committee Hansard*, 2.10.03, p. 54.

16 *Telstra (Transition to Full Private Ownership) Bill 2003*, Second Reading Speech.

- while the Government has decided to proceed with the sale legislation, the timing of any further sale is dependent on equity market conditions. The Government has stated it will only then proceed with the sale when market conditions are conducive to achieving an appropriate return for taxpayers from the sale.

2.17 The Government has also made it clear that it considers it important to remove the conflict of interest whereby it is both regulator of the telecommunications industry and the majority shareholder in the largest player in the industry.¹⁷ The Government has stated that the proceeds of the sale of its remaining shareholding will be used to retire debt and may also be allocated to fund other liabilities. While the Commonwealth will forego future dividends from Telstra, retiring net debt will reduce the cost of debt servicing and free up funds to deliver tax reductions and expenditure on government programs.¹⁸ The Commonwealth will also continue to benefit from taxation payments, by both the company and a larger base of shareholders.¹⁹

2.18 In relation to the issue of whether debt servicing reductions as a result of using the proceeds of the sale of the remainder of Telstra to retire Commonwealth Government debt would exceed the flow of dividends from Telstra that the Government would otherwise have received, Mr Heazlett of DOFA had this to say:

At an initial stage, we have looked at the issue at a simpler level where you can, as a first cut, look to examine the interest rate that is payable on Commonwealth debt. As a clear reference point, you would look to the current 10-year bond rate, which, as I read it off the Reserve Bank site, at the end of September was 5.38 per cent and compare that with the dividend payable on Telstra shares. Based on the ordinary dividends paid in 2002-03, there is a clear benefit of excess of savings on interest over dividends received at those two parameters, but as yet the government has not made a decision to proceed to sale. At the time that we do proceed to sale, we will examine those issues in detail.

Senator Cherry - In the 2003-03 year there was a clear benefit of savings on interest over dividends received. Are you saying that in the current 2002-03 year the interest savings would have exceeded the dividend?

Mr Heazlett - At any share price above \$4.50, the savings based on the 10-year bond rate are in excess of the dividends.²⁰

With regard to whether continuing to receive a dividend stream from Telstra would outweigh debt servicing savings, AAPT has calculated that the Government would

17 Submission No. 135 (DCITA and DOFA), pp. 33-34.

18 Submission No. 135 (DCITA and DOFA), pp. 37.

19 Explanatory Memorandum, p. 4.

20 Mr Mark Heazlett and Senator John Cherry, *Proof Committee Hansard*, 7.10.03, p. 11.

make a net gain of \$235million per annum if all the proceeds of the sale were used to retire debt.²¹

2.19 Another consideration is that using the proceeds to reduce debt will mean securing certain debt servicing savings in place of uncertain dividend streams. ABN AMRO Rothschild identified this and other downstream financial benefits for the Commonwealth:

... the sale of Telstra reduces the risk profile for the Commonwealth Government by replacing uncertain equity income with a certain debt cost reduction. The Commonwealth will continue to share in performance improvements made by Telstra after selldown, through taxation receipts that accompany any higher profitability. ...there is an indirect financial benefit to the Commonwealth through the fact that the privatisation of Telstra is expected to generate ongoing benefits for the overall economy through improved telecommunications performance, feeding into a whole range of other industry sectors that are users of these services and whose real cost will decline and quality of service improve. The improvement in economic performance will in turn be reflected in the overall tax base of the Commonwealth.²²

Similarly, Mr Heazlett told the Committee that:

I would make a comment that, in making judgements about whether you are owning or selling shares in Telstra, an important consideration to keep in mind is that the revenue or the flow of funds that the government may obtain from Telstra through dividends is subject to the commercial risk of Telstra's operations. The money that the government will save from the repayment of debt is risk-free money. If there is an argument that you should retain Telstra because of the flow of future dividends, effectively you are making a judgement that you are punting the taxpayers' resources on a higher risk enterprise than the repayment of debt.²³

2.20 As long as the Commonwealth is required to maintain a 50.1 per cent shareholding in Telstra, it cannot raise new equity capital or introduce a dividend investment plan because that would reduce the Commonwealth's ownership below this level. This inability to access equity markets and consequent need to rely on debt markets adds to the cost of capital and limits the amount of funds that can be returned to shareholders.²⁴ This in turn creates investment uncertainty and has undoubtedly depressed Telstra's share price. The ALP's opposition to the full sale of Telstra has not only cost the Australian taxpayer some \$30 billion, but has reduced the value of

21 Submission No. 114 (AAPT), p. 7.

22 Submission No. 137 (ABN AMRO Rothschild), p. 16.

23 Mr Mark Heazlett, *Proof Committee Hansard*, 7.10.03, p. 13.

24 Submission No. 135 (DCITA and DOFA), pp. 34-35.

the shares and dividend returns of the several million Australians who own shares in Telstra.

2.21 The Committee agrees with the Government that ownership is not the issue and that it is effective regulation that protects consumers and promotes competition. Not only is this the case now, but it has been for many years:

In practical terms, the Government's method of controlling Telstra shifted from direct ownership to the regulatory regime in 1997 when Telstra first gained private shareholders. Government control of Telstra will not be reduced by the proposed change of ownership because the regulatory regime is legislated independent of government ownership of Telstra.²⁵

2.22 Telstra also pointed out that the power of Ministerial direction, which would be repealed by the Bill, had never been used. Telstra went on to say that while it had never been used, there remained a deeply held perception in the investment community that the Government's majority ownership of Telstra allowed the government of the day to influence its direction, and that while there was no substance to this perception, these investor concerns acted as a significant disincentive to invest in Telstra.²⁶

2.23 Telstra has been required to operate on a commercial basis since 1991 when the company was incorporated under the Telstra Corporation Act, and as the telecommunications industry has been progressively liberalised, in an increasingly competitive market. The Committee believes that in such an environment services can most effectively and efficiently be delivered to consumers by privately owned and operated enterprises and that community service obligations can best be met through a combination of regulation and government funding targeted at services that are not commercially sustainable. As AAPT pointed out, 'We have had 100 years of the government trying to run telecommunications'. If people are dissatisfied with the level of service they are receiving, '... they need to turn their minds to what we need to do differently and not to what we need to continue to do'.²⁷ It is the Committee's contention that it is only since the process of privatisation and competition began that Telstra seriously began to put the customer first and to introduce efficiencies that enabled it to offer consumers lower prices and better services.

25 Submission No. 144 (Telstra), pp. 1-2.

26 Submission No. 144 (Telstra), p. 5.

27 Mr David Havyatt, *Proof Committee Transcript*, 30.09.03, p. 89.