The Powers of Australia's Communications Regulators

Submission by Telstra Corporation Limited to the Senate Environment, Communications, Information Technology and the Arts Committee

4 February 2005

EXECUTIVE SUMMARY

Telstra welcomes the opportunity to provide this submission to the Inquiry by the Senate Environment, Communications, Information Technology and the Arts Committee (**Inquiry**) into the powers of Australia's communications regulators.

In summary, Telstra supports the merger of the ACA and ABA. Greater coordination at the institutional level is a legitimate first step towards addressing technological convergence. Importantly, Telstra does not seek any substantive amendments to the powers of Australian communications regulators in this review, although the review should ensure that respective responsibilities are clearly defined and demarcated.

Telstra understands that the Minster has announced a separate review into the telecommunications industry's regulatory framework.[1] Telstra supports such a review as timely given the changes in the communications industry in terms of ever-increasing competition and technological convergence. This separate review is the appropriate forum to address more substantive policy and regulatory issues, and Telstra looks forward to participating.

Telstra's response to the terms of reference of the present Inquiry is as follows:

A. The provisions of the ACMA Bill 2004 and the ACMA (Consequential and Transitional Provisions) Bill 2004 and related bills:

- Telstra supports the proposed merger of the ACA and ABA. The merger is consistent with international best practice and will promote more consistent regulation of convergent technologies, increasing regulatory efficiency.
- Telstra supports the approach in the ACMA Bill and related Bills which involves a mere transfer of existing powers from the ACA and ABA to the ACMA.
- However, the aggregation of power within the ACMA does create a greater need to ensure the accountability of the ACMA than with its predecessors. Telstra therefore supports the mechanisms in the ACMA Bill to ensure greater accountability of the ACMA relative to its predecessors.

B. Whether the powers of the proposed ACMA and the ACCC will be sufficient to deal with emerging market and technical issues in the telecommunications, media and broadcasting sectors:

- Responsibility between the ACMA and the ACCC should be clearly demarcated and clarified. The ACCC should expressly not have jurisdiction in relation to matters properly within the jurisdiction of the ACMA and *vice versa*.
- The existing powers of the ACMA and ACCC are already more than sufficient to deal with emerging market and technical issues. The ACMA will have ample powers to address technical issues. The ACCC already has more than ample powers to address competition issues. The focus of this Inquiry should be on clarifying responsibilities between the two regulators given their potentially overlapping powers.

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[1] See http://www.minister.dcita.gov.au/media/media_releases/telstra_scoping_study.

- Telstra submits that it is not necessary or desirable to make any substantive amendments to the underlying regulatory regime in the context of the formation of the ACMA. Rather, any such amendments should be the subject of careful separate consideration in light of the policy intent to promote better regulation of convergent technologies. In this respect, the regulatory review announced recently by the Minister may be the appropriate forum for such issues to be considered.

C. Whether the powers of Australia's competition and communications regulators meet world best practice, with particular reference to the United Kingdom regulator OFCOM and regulators in the United States of America and Europe:

- International best practice supports a level of regulation closely tailored to the level of competition and directed at instances of manifest market failure. As competition develops, regulation should be reduced commensurately. Australia has not reduced its regulation to reflect the development of competition, so now over-regulates its telecommunications sector by world standards.

- The ACCC already has regulatory powers and functions greater than generic competition regulators in other comparable jurisdictions. Unlike other jurisdictions, the ACCC has a principal role in sectoral access regulation as well as generic competition regulation.

This submission addresses each of these points in turn below.

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1 THE PROVISIONS OF THE ACMA BILL 2004 AND THE ACMA (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2004 AND RELATED BILLS

1.1 Telstra supports the proposed merger of the ACA and ABA

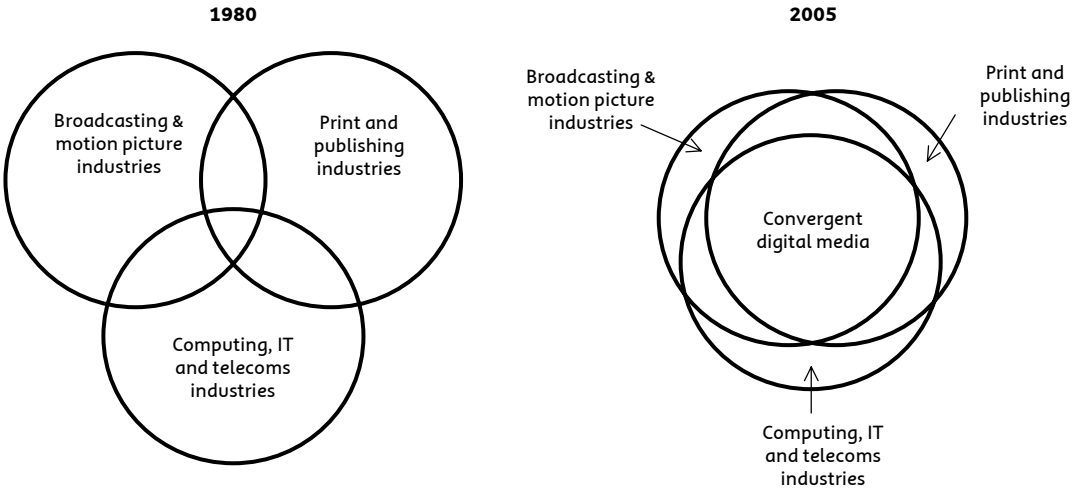
Telstra supports the proposed merger of the Australian Communications Authority (**ACA**) with the Australian Broadcasting Authority (**ABA**) to create the Australian Communications and Media Authority (**ACMA**).

Telstra understands that the policy motivation for the merger is to respond to technological convergence within the communications industry. Telstra agrees with the Explanatory Memorandum to the ACMA Bill that digital technologies are reshaping traditional telecommunications and broadcasting industry sectors by allowing new types of devices and services, necessitating a policy response.

Telstra recognises the challenge for two separate regulators, focused on separate aspects of the same technologies, to respond to convergence. Telstra believes that the merger of the ACA and ABA will enable more consistent regulation of convergent technologies, increasing regulatory efficiency.

As the Committee would be aware, the term "convergence" is generally taken as referring to the ability of different media to be provided over essentially the same type of digital platform, as illustrated by the diagram in **Figure 1** below.

Figure 1: Conceptual illustration of convergence over the last 25 years



The challenge for jurisdictions, such as Australia, experiencing technological convergence is to adopt more harmonised and co-ordinated regulatory structures across convergent media. Such co-ordination is required through several layers in Australia's regulatory structure:

- the *policy layer*, requiring greater consistency and technological neutrality in government policies;

- the *legal and regulatory layer*, requiring greater consistency and technological neutrality in government laws and regulations developed for convergent media to give effect to government policies; and

- the *institutional layer*, requiring greater consistency and technological neutrality in government laws and regulations as applied and enforced by regulators, including institutional convergence between regulators.

Promoting greater convergence at the institutional layer is a legitimate step towards addressing technological convergence, but only a first step. Such a step is entirely consistent with international best practice and precedent. A number of key jurisdictions are currently focused on achieving, or have already sought to achieve, convergence at the institutional layer. Convergence at the institutional layer is, in turn, enabling convergence at the policy layer and legal and regulatory layer.

The experience of the UK in addressing technological convergence is illustrative. On 12 December 2000, the British Government published a White Paper titled *A New Future for Communications* which included an analysis of the impact of convergence on UK telecommunications and media regulation as it existed at that time.[2] Among the key issues addressed by the White Paper was the issue of institutional convergence.

Within the White Paper, the British Government proposed the creation of the Office of Communications (**OFCOM**) as a new unified communications regulator to replace the functions of five existing regulatory bodies, namely the Independent Television Commission, the Broadcasting Standards Commission, the Office of Telecommunications, the Radio Authority and the Radiocommunications Agency. OFCOM was established in March 2002 and has subsequently commenced significant policy reviews.

Telstra views the proposed merger of the ACA and ABA as constituting an important step in achieving a regulatory structure capable of addressing technological convergence.

1.2 Telstra supports the approach in the ACMA Bill and related bills

Telstra's review of the Australian Communications and Media Authority Bill 2004 (**ACMA Bill**) and its related bills indicates, consistent with the Explanatory Memorandum, that the ACMA Bill would effectively confer on the ACMA the same powers and functions as were previously conferred on both the ACA and the ABA. There is no proposed change to the substantive underlying regulatory regime. There is no expansion or contraction of powers of the aggregated ACMA beyond those currently held by the ACA and ABA.

Telstra supports this approach as an appropriate process to establish the merged entity, and proposes no material amendments.

Telstra believes that issues relating to possible substantive amendments to the underlying regulatory regime should be addressed separately, outside the ACMA Bill and submits that the regulatory review recently announced by the Minister may be the appropriate forum for this. Such issues may relate to convergence at the policy

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[2] See *A New Future for Communications,* Communications White Paper, Department of Trade & Industry, London, http://www.communicationswhitepaper.gov.uk/.

layer, and legal and regulatory layer, so raise significantly more complex issues deserving of close policy and legal scrutiny by a dedicated review process.

Telstra has responded separately on the issues of convergence at the policy layer, and legal and regulatory layer in sections 2.3 and 2.4 of this submission.

For the benefit of the Committee, Telstra has compared the functions and powers of the ACMA with those of the ABA and ACA in detail below, expanding on the comments in the Explanatory Memorandum.

Consistent with the approach under the existing legislation, the functions of the ACMA have been categorised as:

- Telecommunications functions:[3] As Telstra understands it, the telecommunications functions of the ACMA are identical to those of the ACA in all respects, except for evidentiary certificates in relation to telephone sex services (which are now classified as a broadcasting, content and datacasting function). The ACMA will have a new telecommunications function to monitor, and to report to the Minister, on the operation of each specified Act, to ensure consistency with the similar broadcasting function currently held by the ABA.

- Spectrum management functions:[4] As Telstra understands it, the spectrum management functions of the ACMA will be identical to those of the ACA in all respects, except for certain datacasting licensing issues (which are now classified as a broadcasting, content and datacasting function). Again, the ACMA will have a new spectrum management function to monitor, and to report to the Minister, on the operation of each specified Act.

- Broadcasting, content and datacasting functions:[5] As Telstra understands it, the broadcasting, content and datacasting functions of the ACMA will be identical to those of the ABA in all respects, with the addition of the functions arising from the two minor reclassifications identified above. The broadcasting, content and datacasting functions will also include a new function "*to do anything incidental to or conducive to the performance of any of the above functions*" to ensure consistency with the wording of the telecommunications and spectrum management functions, adopting the language from the ACA Act. The functions of the ABA under various other legislation, such as the Interactive Gambling Act, have been consolidated into the list of functions of the ACMA.

- Additional functions:[6] The additional functions relate to the management of electronic addressing and the supply of various services or facilities on behalf of the Commonwealth, consistent with the ACA Act. All other functions conferred on the ACMA under the Act and any other law that do not otherwise fall into the other three categories are also categorised as additional functions.

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3 The telecommunications functions are listed in clause 8 of the ACMA Bill.

4 The spectrum management functions are listed in clause 9 of the ACMA.

5 The spectrum management functions are listed in clause 10 of the ACMA Bill.

6 The spectrum management functions are listed in clause 11 of the ACMA Bill.

On Telstra's analysis, the ACMA will have no materially wider remit than its predecessors.

1.3 Telstra supports the increased accountability of the ACMA

The scope of the powers of the ACMA will be determined by its functions, as identified above. As with the ACA and ABA, the powers of the ACMA are expressed as the "*power to do all things necessary or convenient to be done for or in connection with the performance of its functions*".

As the functions of the ACMA will be identical to those of the ACA and ABA, the ACMA will have identical powers to those previously possessed by both the ACA and the ABA.[7] To the extent that the powers or functions of the ACMA differ from those of the ACA or ABA, the differences resolve inconsistencies arising from the fact that the two current bodies would be merged into one.

However, Telstra urges caution given that the aggregated power of the new agency is necessarily greater than the sum of its individual parts. In that sense, the 'catch all' provision identified above, affording the ACMA "power to do all things necessary or convenient to be done for or in connection with the performance of its functions" is very broad. Accordingly, it may be necessary to have some protections against this clause being used by ACMA to broaden its powers beyond that intended by the Parliament. One means by which this can be done, is to require ACMA to advise the Minister when it intends to apply this 'catch all' clause, and to provide the Minister with the power to advise ACMA if the Minister believes that the reason for the use of this clause goes beyond that which the Government and the Parliament intended.

Telstra believes that there is therefore a need to ensure increased accountability of the ACMA relative to the ACA and ABA. Such increased accountability would offset the greater aggregated power possessed by the ACMA. Telstra therefore supports the mechanisms to increase the accountability of the ACMA set out in the ACMA Bill.

Telstra understands that additional accountability mechanisms imposed on the ACMA in the ACMA Bill include the following:

- While the ACA and ABA are each authorities regulated under the *Commonwealth Authorities and Companies Act 1997*, the ACMA will be regulated by the *Financial Management and Accountability Act 1997*. This requirement will increase the financial management and accountability of the ACMA to the Government for its use of public resources without adversely affecting the performance of its regulatory functions.

- An ACA member can be dismissed if the Minister is of the opinion that their performance has been unsatisfactory for a significant period of time. All ACA members can be dismissed if the Minister is of the opinion that the performance of the ACA has been unsatisfactory for a significant period of time. In contrast, ABA members can only be terminated individually and not

[7] Unlike the ABA, the ACMA will not have powers to acquire/hold/dispose of property; enter into contracts, and lease land or buildings, but in Telstra's view this is of no regulatory significance.

as a group, and then only on the traditional grounds of misbehaviour, physical or mental incapacity, bankruptcy, etc. The termination provisions in the ACMA Bill mirror those in the ACA Act.

2 WHETHER THE POWERS OF THE PROPOSED ACMA AND THE ACCC WILL BE SUFFICIENT TO DEAL WITH EMERGING MARKET AND TECHNICAL ISSUES IN THE TELECOMMUNICATIONS, MEDIA AND BROADCASTING SECTORS

2.1 Responsibility between the ACMA and ACCC should be clearly demarcated

Telstra strongly emphasises the importance of ensuring a clear demarcation of responsibility between the ACMA and ACCC. Telstra has significant concerns regarding the potential for overlap and duplication of responsibilities between the regulators. Such overlap and duplication is likely to be very inefficient and has the potential to lead to over-regulation. Such overlap may also lead to tensions between the regulators and divergences in approach, resulting in uncertainty for industry participants, thereby creating disincentives in relation to innovation and competitive investment.

Telstra submits that the ACMA Bill should include a statement that the ACCC does not have jurisdiction over matters properly within the jurisdiction of the ACMA and *vice versa*.

In Telstra's view, matters of broadcasting sectoral regulation and associated content regulation are properly within the remit of the ABA and hence the ACMA. Similarly, matters of telecommunications/radicommunications technical regulation are properly within the remit of the ACA and hence the ACMA. The ACMA will have the necessary specialist sectoral expertise and experience to address those issues, for example spectrum management, radiocommunictions/telecommuncations licensing, 3G telephony, digital broadcasting, transmission of spam etc. The ACCC should remain focused on the competition dimension.

2.2 The existing powers of the ACMA and ACCC are already sufficient

In Telstra's view, the existing powers of the ACMA and ACCC are already sufficient to deal with emerging market and technical issues. The focus of this Inquiry should instead be on clarifying responsibilities between the two regulators given their potentially overlapping powers, especially in light of the increasingly convergent communications market.

An examination of the powers of ACMA and the ACCC reveals an extensive regulatory reach, touching on all facets of the telecommunications industry, including competition, consumer, technical and social policy. The presence of a network of industry regulatory bodies such as the Telecommunications Industry Ombudsman (**TIO**) and Australian Communications Industry Forum (**ACIF**) means that the telecommunications industry is one of the most regulated sectors in Australia.[8] Industry participants also comply with a myriad of industry consumer and technical codes, developed carefully by the industry under a self-regulatory approach, obviating the need for further regulation by the ACA, ABA and ACCC.

[8] Other industry bodies with an active policy role include: Service Providers Action Network (SPAN), Australian Telecommunications Users Group (ATUG), Aust Mobile Telecommunications Assoc (AMTA), Aust Internet Industry Assoc (AIIA), Numbering Advisory Committee (NAC), Communications Technical Regulatory Advisory Committee (CRTC) and State fair trading agencies.

Seen in this light, Telstra believes that the regulators' existing powers are more than ample to deal with current issues in the telecommunications and broadcasting sectors:

- Telstra submits that the ACMA already has ample powers to deal with emerging technical, content and sectoral issues. There is no need to increase the powers of the ACMA relative to the ACA and ABA.

- The ACCC has more than ample powers to deal with emerging market issues that have a competition dimension, including roles as educator, prosecutor, advocate, adjudicator and arbitrator.

By way of illustration, the functions of the ACCC currently include the following:

CURRENT FUNCTIONS OF THE ACCC	
Trade Practices Act 1974	General competition advocacy.
	Providing submissions relating to government policy development.
	Initiating compliance education programs and research in relation to compliance with the Act.
	Investigation of breaches of the Act.
	Enforcement of the competition provisions of the Act.
	Enforcement of the consumer protection provisions of the Act.
	Liaising with Federal, State and Territory Governments and regulatory authorities on economic structural reform.
	Administering the prohibition on GST price exploitation.
	Enforcing product safety standards.
	Adjudicating on applications relating to restrictive business practices (clearances, authorisations and notifications).
	Part IIIA access arbitrations.
	Declaration of services under Part XIC.
	Part XIC access arbitrations.
Telecommunications Act 1997	Arbitration of various disputes, including in relation to facilities access.
Prices Surveillance Act 1983	Price surveillance.
	Vetting proposed price rises.
	Monitoring prices, costs and profits of an industry or business.
Airports Act 1996	Performing quality of service monitoring and reporting.
	Facilitating access to airport services of national significance.
	Receiving accounts and reports to facilitate prices oversight.
Australian Postal Corporation Act 1989	Inquiring into disputes over the amount of postal rate reduction for mail interconnection.
Broadcasting Services Act 1992	Reporting on the allocation of subscription TV broadcasting licences.
	Monitoring cross-media ownership of the holders of subscription TV broadcasting licences.
Gas Pipelines Access	Regulating third party access to natural gas pipeline systems.

(Commonwealth) Act 1998	Arbitration of disputes over spare capacity.
	Regulation of increases in capacity and the terms and conditions of haulage.
Trade Marks Act 1995	Approval of certification trade marks.

2.3 Substantive amendments to the underlying regime should be addressed separately

As identified above, Telstra believes that substantive amendments to the underlying regulatory regime should be addressed separately, outside the ACMA Bill.

Substantive amendments to the underlying regulatory regime involve convergence at the policy layer, and legal and regulatory layer, rather than at the institutional layer. Accordingly, they raise significantly more complex issues deserving of close policy and legal scrutiny by a dedicated review process.

Telstra submits that any change to the substantive underlying regulatory regime for telecommunications should be the subject of careful separate consideration in light of the policy intent to promote better regulation of convergent technologies.

In most jurisdictions, including Australia, sectoral regulation is significantly different in its treatment of different media. Such regulatory differences create a number of potential regulatory costs and risks: [9]

- unnecessary regulatory restrictions on the use of infrastructure;
- regulatory uncertainty, usually arising from the application of regulation intended for one technology to new technologies (e.g., voice over IP);
- inconsistent requirements for market entry and licensing;
- inconsistent approaches to the achievement of the same public interest objectives;
- inconsistent standards for similar concepts between different industries; and
- inappropriate regulation.

In light of these costs and risks, a number of jurisdictions (including the UK) have sought to better harmonise their regulatory framework across convergent media.[10]

These jurisdictions have adopted an important *principle of technological neutrality* with a view to preventing market distortions and reducing regulatory barriers.

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[9] See OECD *Regulation and Competition Issues in Broadcasting in the Light of Convergence* OECD, Committee on Competition Law and Policy, DAFFE/CLP(99)1, 26 April 1999.

[10] OFCOM, for example, is currently undertaking a review of telecommunications regulation in the UK with "*particular focus on assessing the prospects for maintaining and developing effective competition in the UK telecommunications markets, while having regard for investment and innovation*".

Telstra submits that this principle of technological neutrality should be fundamental to telecommunications and broadcasting law and policy in Australia and should guide future regulatory reforms.

3 WHETHER THE POWERS OF AUSTRALIA'S COMPETITION AND COMMUNICATIONS REGULATORS MEET WORLD BEST PRACTICE, WITH REFERENCE TO OFCOM AND REGULATORS IN THE USA AND EUROPE

3.1 Australia is now over-regulated by international standards

International best practice indicates that regulation should only be applied where there is clear evidence of market failure. As the level of competition increases, so the need for regulation will decrease as increased competition will reduce any scope for market failures associated with excessive market power. This result is fundamental to modern competition policy and constitutes world's best practice.

Necessarily, the powers of telecommunications and broadcasting regulators in each jurisdiction around the world therefore reflect the level of competition in the markets of that jurisdiction. Under world's best practice, in newly deregulated markets characterised by little competition, the powers of regulators are necessarily substantial. In markets that have been subject to significant market entry, the powers of regulators are commensurately reduced.

Moreover, where regulation does occur, international best practice indicates that every jurisdiction should seek to minimise the scope for regulatory error. As the Productivity Commission has found, incorrect regulation can often be more damaging than no regulation at all.

Telstra submits that Australia is in a situation where significant market entry has occurred. However, Australia's telecommunications regulatory regime has not yet been properly adjusted to reflect this: instead of decreasing the level of regulation, Australia has often increased it. As a result, Australia is now over-regulated by world standards.

The Productivity Commission concluded in its 2001 review of *Telecommunications Competition Regulation*, that even at the relatively early stage of evolution in the telecommunications industry that existed in 2001, where markets were not yet fully competitive, there was still a need for a more light-handed regulatory approach in recognition of the increased competition.

Since the Productivity Commission's report in 2001, competition has further developed and technology has evolved. This is evidenced, for example, by the emergence of VoIP technologies, 3G mobile technologies and the rapid rise of broadband services in Australia. While it may, in some circumstances, be important to continue regulation for new technologies in the short term (say, to ensure residential consumers continue to have access to fully functional E000 and 106 availability for their IP telephony services), it is also important to ensure that regulation only apply to areas of market failure.

Indeed, as a general rule, Telstra would caution against making *a priori* assumptions about the carry-over of existing regulation to new and evolving services. Put differently, the flexibility of the regulatory framework to accommodate new technologies in a technologically neutral fashion should not be a licence to regulate. Rather, as technological change occurs, regulation should be reviewed to ensure that it applies only to areas of market failure.

3.2 The ACCC already has sufficient regulatory powers by international standards

In the specific context of telecommunications, the ACCC already has substantial regulatory powers spread over the *Trade Practices Act 1974*, the *Telecommunications Act 1997* and the *Telecommunications (Consumer Protection and Service Standards) Act 1999*. An indicative list of these powers is set out in **Annexure A** to this submission.

For the purposes of this submission, Telstra compared the powers of the FCC and OFCOM with those of the ACCC. Telstra's general conclusion from this comparison is that while the powers of the ACCC are generally consistent with those in other jurisdictions, the regulatory powers in other jurisdictions tend to be more widely dispersed and less concentrated in the hands of a single regulator.

In many other jurisdictions (e.g., United States, Canada, Germany, Italy) the equivalent of the ACMA, as sectoral regulator, is responsible for sectoral access regulation; rather than the generic competition regulator. This is the converse of Australia where considerable sectoral regulatory powers have been given to the generic competition regulator, the ACCC.

Generally, it is difficult to make "like for like" regulatory comparisons between countries. Regulatory environments rarely develop in tandem but evolve in different timeframes in different constitutional, political, and socio-economic contexts. Even so, there are strong similarities between Australia and the United Kingdom, the United States and many European countries which validate any comparison:

- United States: The US exhibits a very high degree of separation of regulatory power in the telecommunications sector. There is no single agency or institution in charge of telecommunications competition policy. Rather, regulation is derived from an interplay of multiple agencies and industry actors, at multiple levels of jurisdiction, both horizontally (within the federal government) and vertically (between state, local and federal governments).

  The FCC is a congressionally authorised independent agency and enforces technical, economic and access regulation. The Justice Department, through its Antitrust Division, enforces the generic competition laws in cases involving telecommunications carriers. The FTC, an independent Federal agency, is also charged with preventing unfair and deceptive market practices by companies operating in the United States, but is prevented by statute from reviewing mergers of telecommunications common carriers.

  Pursuant to their jurisdiction over intrastate services, the various states of the United States also maintain boards, commissions or departments within their governments to regulate the *intra*-state activities of telecommunications utilities. This division of labour may strike Australian eyes as chaotic, but in practice the checks and balances in the system ensures that regulation is tightly targeted at points of market failure and that the intervention itself is carefully crafted to ensure as efficient outcomes as possible.

- Canada: The Canadian Radio-television and Telecommunications Commission (CRTC) is an independent agency regulating telecommunications and broadcasting, but does not regulate competition issues. The Canadian

Competition Bureau is responsible for the administration of generic competition law. The CRTC rather than the CCB regulates telecommunications access issues.

- United Kingdom: OFCOM has regulatory responsibilities across television, radio, telecommunications and wireless communications services. The Office of Fair Trading applies and enforces the generic competition provisions of the Competition Act. Interestingly, both regulators have concurrent jurisdiction in relation to anti-competitive behaviour and hence must co-ordinate enforcement activities.

- Germany and Italy: Telstra understands that the competition authorities of Germany and Italy are the principal authorities responsible for the enforcement of competition law. In both jurisdictions, sectoral regulation (including access regulation) is enforced by the sectoral regulator. However, there is significant consultation between the respective entities.

Based on this analysis, Telstra believes that the powers of the ACCC in Australia are generally greater than the powers of generic competition regulators in other comparable jurisdictions. In effect, Australia's generic competition regulator has a significant additional role as a sectoral regulator, creating an unusually high concentration of regulatory power in the hands of the generic competition regulator relative to international best practice.

ANNEXURE A

TELECOMMUNICATIONS REGULATORY POWERS OF THE ACCC

The ACCC has substantial regulatory powers spread over the *Trade Practices Act 1974*, the *Telecommunications Act 1997* and the *Telecommunications (Consumer Protection and Service Standards) Act 1999*. The following list of powers is not exhaustive:

- investigation and enforcement powers in relation to the generic restrictive trade practices provisions in Part IV of the Trade Practices Act;
- information gathering powers, including powers to inspect documents, enter onto premises and to require the production of documents;
- powers to provide authorisations and clearances, provide exemption orders, and accept voluntary undertakings;
- powers to issue advisory notices and Part A and Part B competition notices in relation to alleged anti-competitive behaviour in telecommunications markets;
- powers to make tariff-filing directions, including specifically in relation to Telstra;
- powers to issue record-keeping rules and to make certain reports available via disclosure directions;
- powers to review competitive safeguards in the telecommunications industry and provide reports to the Minister on competition in the telecommunications industry;
- powers to monitor telecommunications charges paid by consumers;
- powers to "declare" various services under Part XIC of the Trade Practices Act, thereby imposing various additional regulatory obligations on service providers;
- powers to determine model terms and conditions relating to access to core declared services;
- powers to provide access exemptions and accept or reject access undertakings;
- powers to give directions in relation to negotiations involving declared services;
- powers to make a telecommunications access code;
- powers to arbitrate access disputes, including pricing and non-price terms and conditions;
- powers to register agreements for access to declared services;

- powers to arbitrate disputes relating to access to facilities and access to network information;
- powers to make a facilities access code;
- powers to consult with the ACA and TIO on telecommunications industry standards;
- powers to administer rules of conduct in relation to dealings with international telecommunications operators, including undertaking investigations and enforcement action;
- powers to consult with the ACA in relation to the telecommunications numbering plan and allocation of numbers;
- powers to make directions to the ACA in relation to number portability;
- powers to arbitrate disputes in relation to compliance with the numbering plan;
- powers to give directions, prevailing over ACA directions, to a declared manager of electronic addressing;
- powers to conduct inquiries and investigations under the Telecommunications Act and to take enforcement action;
- powers to issue warnings in relation to certain breaches of carrier licence conditions;
- powers to arbitrate the supply of carriage services for defence purposes or the management of natural disasters;
- powers to declare services in relation to preselection and to arbitrate preselection disputes;
- powers to direct the ACA to make technical standards about the interconnection of facilities;
- powers to determine telecommunications price controls; and
- powers to arbitrate disputes over access to emergency call services.