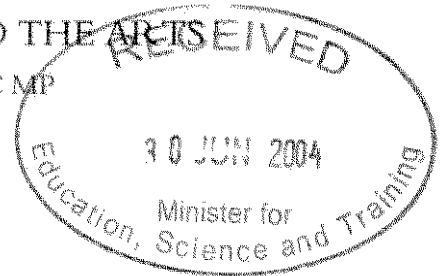




MINISTER FOR COMMUNICATIONS
 INFORMATION TECHNOLOGY AND THE ARTS
 THE HON DARYL WILLIAMS AM QC MP



The Hon Dr Brendan Nelson MP
 Member for Bradfield
 Parliament House
 CANBERRA ACT 2600

27 JUN 2004

Dear Minister *Brendan*

Thank you for your representation of 13 April 2004 on behalf of your constituent, Mr Allan Williams of 10 Cambourne Avenue, St Ives, concerning Telstra and digital television standards.

I understand Mr Williams has, on several occasions, written and telephoned the Department of Communications, Information Technology and the Arts (the Department) on these matters, including a detailed submission in response to my predecessor Senator Alston's release of the Australian Competition and Consumer Commission's report "Emerging Market Structures in the Communications Sector" in 2003. The Department has responded to Mr Williams on a number of these matters in previous correspondence. However, my response to the issues he raised in his letter to you of 30 March 2004 are provided below.

- ① Firstly, Mr Williams questioned the policy of privatisation of Telstra. The Government believes that selling the remainder of Telstra is in the national interest for several reasons. Privatisation provides the Government with the flexibility to retire outstanding debt. It also enables Telstra to realise its full potential as one of Australia's most important companies in the information age. Furthermore, it removes the conflict of interest whereby the Government has the job of setting the rules (both competition regulation and consumer safeguards) for around 100 phone companies while maintaining a direct financial interest in Telstra.

I have attached a copy of a media release on this matter, which you may wish to forward to Mr Williams.

- ③ Mr Williams also expressed concerns about Telstra's investment in Foxtel. In the "Emerging Market Structures" report, the ACCC recommended that the Government introduce legislation requiring Telstra to divest in full its hybrid fibre-coaxial (HFC) cable network (which is used to carry the Foxtel pay TV service), and divest its 50% shareholding in Foxtel, unless it can be shown that the costs of such divestiture outweigh the benefits of increased competition. The Government has indicated that there are very sound reasons for not supporting the ACCC's recommendation. The

ACCC proposal would result in fundamental industry restructuring years after very large investments have been made. Such proposals could involve significant costs and risks.

4 It appears that Mr Williams is concerned that Telstra may, by virtue of its position in the industry, monopolise digital communications infrastructure. The Government has in place regulatory measures to address competition concerns through the general competition law in the *Trade Practices Act 1974* (the Act). In addition to the general provisions, the Government has implemented a telecommunications industry-specific access regime in Part XIC of the Act to address any misuse of market power in the supply of carriage services by Telstra or any other player. Foxtel and Telstra have now finalised regulatory access arrangements for digital and analog carriage services under the access regime.

5 Mr Williams also raises issues about technical standards. Determining appropriate technical standards for industries is complex and, in most circumstances, more appropriately a matter for industry organisations such as Standards Australia. Standards Australia has formulated standards for free to air digital television transmission and receivers. It has a continuing role in updating these standards as required. The Australian standards for digital free to air television are based on the X European DVB standards. It is important in the free to air television industry that a common approach to standards is adopted to enable equipment suppliers to retail equipment which meets agreed standards. Therefore, the Government has the ability to set technical standards for digital television transmission, but this would only be used in exceptional circumstances where industry consensus has failed.

6 In relation to digital pay television, the setting of standards is a matter for the providers, who generally also provide the consumer equipment direct to the subscriber. It would not be usual for Governments to regulate the standard adopted by a pay TV operator, but rather to ensure that appropriate arrangements are in place to facilitate access by other providers to the infrastructure to deliver pay television.

7 Another issue Mr Williams raised relates to the way in which terrestrial broadcasting spectrum is used for digital broadcasting. On 10 May 2004, I announced the commencement of a series of reviews of the digital television regulatory framework. The first of these reviews relates to digital television simulcast arrangements and the provision of multichannel and other services in digital broadcast spectrum. A discussion paper is available at www.dcita.gov.au under the "Consultation" link. The discussion paper provides details of how to make a submission to Government on these and related digital broadcasting matters. Mr Williams may wish to forward his views to the Department in the form of a formal submission to this review. Submissions close on 30 July 2004.

Yours sincerely


DARYL WILLIAMS