

**COMBINED PENSIONERS AND SUPERANNUANTS
ASSOCIATION OF NEW SOUTH WALES INC.**

Founded 1931.

Serving pensioners of all ages, superannuants and low-income retirees.

Consumer Protection Awards – 2002, 2003, 2004

SUBMISSION

16th May 2005

Our Ref: GFT.100 / ICT.500

**Inquiry into the performance of the
Australian Telecommunications regulatory
regime.**

INTRODUCTION.

Combined Pensioners and Superannuants Association of NSW Inc (CPSA) is a non profit, non-party political membership based organisation serving the interests of pensioners of all ages, superannuants and low-income retirees. It has around 145 branches and affiliates and a combined membership of over 12,500 throughout NSW. CPSA also serves the interests of its membership and broader constituency at the local, state and federal levels.

CPSA's members and wider constituency include older people sole parents, people with disabilities and their carers. For various reasons they have an abiding and critical interest in Telstra, its administration, regulation and ownership due to their crucial need for access to efficient and affordable telecommunications particularly in connection to health and emergency purposes.

The above stated needs are strongly felt by CPSA, its membership and its wider constituency. Accordingly, the following submission is fervently and strongly made to the Senate Inquiry.

PLEASE NOTE: Since strong opposition to privatisation of Telstra is a major tenet of CPSA policy, this opposition to privatisation is intertwined throughout this document. Given that Item (f) of the "Terms of reference" relevant to this submission canvasses the perceived possible effects of privatisation of Telstra, it should be taken that Section (f) is responded to and referred to throughout the document given the critical importance that CPSA attaches to its opposition to privatisation of Telstra.

ALSO PLEASE NOTE: that various Items of reference may be responded to severally and others will not be addressed at all due to them being deemed inappropriate and/or irrelevant to CPSA.

Policy statement:

At the outset, CPSA is most anxious to express deep felt and trenchant opposition to the privatisation of Telstra.

CPSA perceives public enterprises as being absolutely necessary in providing meaningful competition within any industry. CPSA believes that any industry which is totally in private ownership

immediately reverts into being a monopoly individually or a cartel in concert with others within that industry where scruples and principles are non-existent.

It is felt that many much needed and socially critical services may be imperilled by profiteering and overpricing which would render said services unavailable to disadvantaged consumers or by the complete deletion of said much needed services if commercial edicts become the overriding modus operandi.

Telstra, the Act and the Consumer.

In response to Items (a), (b) and (d).

With the above perception forming a major part of CPSA's thinking on issues of misuse of market power against other participants in telecommunications, and mindful of the partial privatisation of Telstra which has already occurred, we have no doubt that Telstra has already acted anti-competitively by sheer dint of its partial privatisation. It is our contention that this is in the very nature of privatisation also, that regulating bodies do nothing that is effective to end these depredations, if anything, said regulators generally end up acting as promoters of the erring corporations because of the pervading pro-corporations attitude.

Furthermore it is perceived that Telstra's already occurring attempts to exclude and debase competitors from the market portends that if it were a fully privatised body the effects would have been exponentially greater particularly the considerable anti consumer effects.

CPSA's concerns reside with Telstra's abuse and contempt already experienced by consumers since partial privatisation and what these actions presage. For example when Telstra sought and was given permission to substantially increase line rental. CPSA takes this opportunity to roundly condemn the "Regulating" body which endorsed Telstra's move to increase line rental.

It is here contended that said "Regulating" body acted in complete contravention of the trust of the people who most needed its protection i.e. the Consumer. This is based on CPSA's opinion that it was most arrogant for Telstra to choose, and the "Regulator" to allow, line rental as the area where to impose what is considered by CPSA to be excessive price rises linked to the fact that line

rental is a compulsory and unavoidable expense if an individual is to have a telephone installed. CPSA perceives that this is one case where the “Regulator” acted more as an advocate and promoter of the industry rather than a regulator.

On the other hand CPSA condemns the inactivity of the “Regulator” in allowing Telstra (and other operators in the industry) to proliferate and invent headings under which fees were charged where such headings and fees were hitherto non-existent. Furthermore that such “invented” fees progressively escalated sometimes concurrent with service cuts – e.g. in country areas.

The intelligence of the consumer was all the more debased when Telstra - presumably to soften the bitter pill of the virtually compulsory price hike of line rental - magnanimously offered consumers slight price reduction or arrangements in calls. This is contemptible due to the fact that this is where consumers are most able to exercise choice whereas there is almost NO ability to exercise choice with line rental given the critical need, in many cases, for the service.

Furthermore, anecdotally speaking – from complaints still being voiced by country based Branches and members of CPSA – it seems that Telstra has as yet not achieved the performance levels required of it and seemingly never will. More so, should Telstra be fully privatised, will it be unable/unwilling to even attempt the required performance levels particularly if such attempts affect profit demands.

CPSA feels that under full privatisation the arrogance of the ‘free market’ will impose itself on Telstra and through it the consumer and all pretence of ‘performance’ and ‘consumer’ service will be dropped as witnessed in the finance industry e.g. banking, insurance, superannuation industries etc.

The above criticism is offered relevant to Part XIB of the *Trade Practices Act*. CPSA perceives that said *Act* and its constituent parts and Sections are compiled more with the intention of protection of industry and the ‘big end of town’ rather than for consumer protection.

We the consumers inclusive of CPSA are rather cynical, believing that *Acts* such as these are more and more reflecting protection of

industries and corporations and the Devil take the hindmost, the hindmost being the Consumer.

Until such time as REAL regulatory options are promulgated AND ACTUALLY DELIVERED to corporate criminals as they so richly deserve – then such *Acts* and the political ideologues appointed to enforce them will continue to meet with suspicion, cynicism and derision.

All the inadequacies mentioned above are a portent of extreme and drastic consequences – lives may even depend on or be let down by said inadequacies particularly of a service as crucial as telecommunications which CPSA does not trust in full private ownership (witness the several cases where lives were badly affected in the absence of a good service by Telstra – or for that matter its competitors).

Are structures satisfactory?

In response to items (c)*, and (f)*.

Assuming that reference in Item (c) to “structural” issues does not refer to engineering structures of the industry, CPSA has in the past been reasonably confident with the organisational and marketing structures of “the PMG”, “Telecom”, “Telstra” etc. while these have been or are in full or substantial public ownership.

However, with part privatisation and the subsequent ominous show of the buccaneering nature of private ownership, with Telstra incurring major financial losses overseas, finances which could have been put to better use in Australia, beginning to emerge and be recognised, CPSA’s confidence of privatisation, already very low, is further rapidly declining.

CPSA is most concerned on matters relating to the current majority public ownership structure’s provision of vital services and their possible loss to consumers in the event of full privatisation. Services, to mention but a few, such as:

- The 000 emergency number,
- 1800 numbers,
- Personal medical (e.g. beepers for transplant warnings),
- Country services (still needing improvement but could suffer decimation or total loss under full privatisation.)
- An economic Broadband Internet.

The above are but a sample of the services which CPSA perceives as being under threat of either inflated pricing, deterioration or outright cancellation under a fully privatised regime with many other service cuts not becoming evident until too late should full privatisation proceed.

CPSA is furthermore concerned at the inevitable unreasonable escalation in pricing by various subterfuges such as timed calls and proliferation and inventing of headings under which fees are charged (already in evidence) concurrent with service cuts which will no doubt occur with full privatisation (witness fee excesses and declining services in Australian banking since privatisation).

Such price escalation and service cuts have caused and will cause much hardship to disadvantaged Australians including members of CPSA and must be “regulated” out of this industry under any circumstances.

Are current regulatory regimes effective?

In response to Items (c)*, (d), (e) and (f)*.

CPSA is particularly concerned with the current virtually negligible control over what fees such an industry may charge even at present, let alone when the situation is set to be exacerbated by the proposed privatisation.

CPSA is also greatly concerned that investment in Telstra will undoubtedly slowly escape into foreign private control with less and less Australian control. In which case decisions relevant to fees and other such issues will progressively be made with less and less input by Australians on what Australians need.

CPSA is utterly rebuffed by, and condemns, the existing timid regulatory regime considered to be more suited to the needs of the “big end of town” in particular with price outcomes and consumer issues – a situation which is bound to become worse with full privatisation of Telstra.

CPSA is not impressed by the regulatory sections of the appropriate *Act* and is most unimpressed by the Regulatory Bodies themselves in particular the leadership and senior members of these Bodies who appear to have been appointed by the Federal

government on the basis that they bring a particular conservative political bias to their positions which, no matter how good the governing *Act* may be, said bias would tend to negate and in some cases even subvert the spirit of the *Act*.

Therefore, since the regulators are almost totally ineffectual in terms of consumer outcomes, CPSA has come to the conclusion that at least one public owned telecommunications operator should remain active to offer options which, to paraphrase a particular expression, "will keep the so-and-sos honest." CPSA believes that this is the ONLY way to create meaningful competition in all fields including telecommunications and the only REAL regulatory impetus if Australian governments really mean all their hot air about "competition" and "regulation".

Does the current regulatory regime promote innovative technology?

In response to Item (i).

CPSA does not wish to address the question of the effect of regulation on innovation any more than to state our conviction that the greed (profit) motive would have the most stultifying effect on innovation. This is witnessed by the fact that according to the Telstra R & D Expenditure Report/s of 1993-2003 it is shown that Telstra R & D investments have declined from 1993 and after a small rise in 2003 when even with said rise the amount invested in 2003 represented about half the amount committed to R & D in 1993 (please refer to attachment).

To further underpin our perception of falling investment into Telstra infrastructure we refer the reader to the Telstra Annual report on capital expenditure of the dates 1997-2004 where capital expenditure in 2004 declined by about 25% comparable to year 1997 after reaching a peak in 2000 (please refer to attachment).

CPSA finds these to be telling statistics as the declines in R & D funding and capital expenditure are concurrent with the period of partial privatisation and quite neatly encapsulate the negative effect of privatisation.

This brings to mind the concerns of CPSA regarding the commitment of funds to maintenance, particularly relative to safety and environment demands.

It has long been the experience of the community that these matters fall grossly behind needs when exploitative privatisation enters the scene as CPSA perceives would be the case with privatisation. These are further major reasons for CPSA's opposition to privatisation.

Reduce scale and scope of regulation and achieve regulatory objectives?

In response to Item (j).

CPSA is aghast at this proposal given that the current regulatory arrangements are already minimal, ineffectual and pusillanimously applied. CPSA believes that this is due to:-

- an ineffectual *Act of Parliament*,
- appointment of senior staff chosen for their perceived anti regulatory biases and 'big business' roots,
- resultant administration and application of regulations with totally unproductive consumer protection effects.

Contrary to reducing regulations, CPSA calls upon regulations to be widened and strengthened and to be more vigorously applied by the appointment of administrators more genuinely amenable to the needs of consumers.

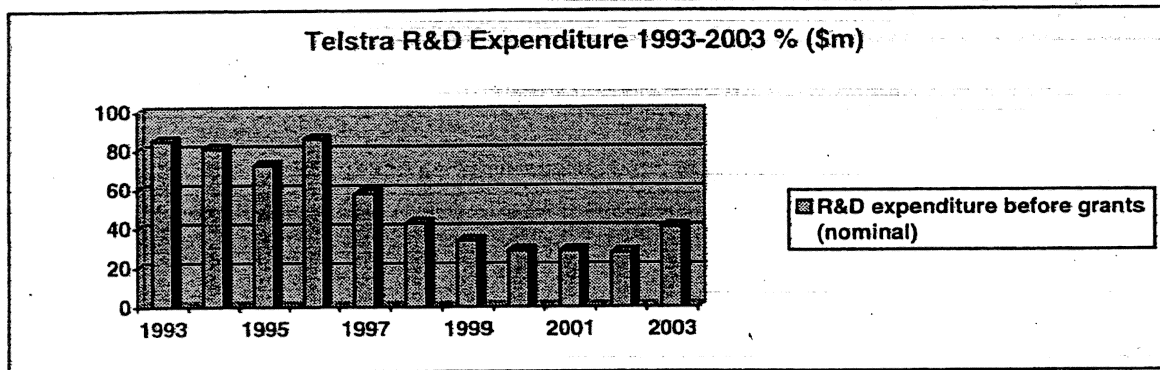
Recommendations:

CPSA enjoins the Senate of Australia to act to attempt to bring to a more reasonable conclusion the apparently ideologically bent intent of the Federal government regarding Telstra and in particular its projected full privatisation to the detriment of all Australians who will heavily depend on efficient communications and features which will most likely be endangered by privatisation.

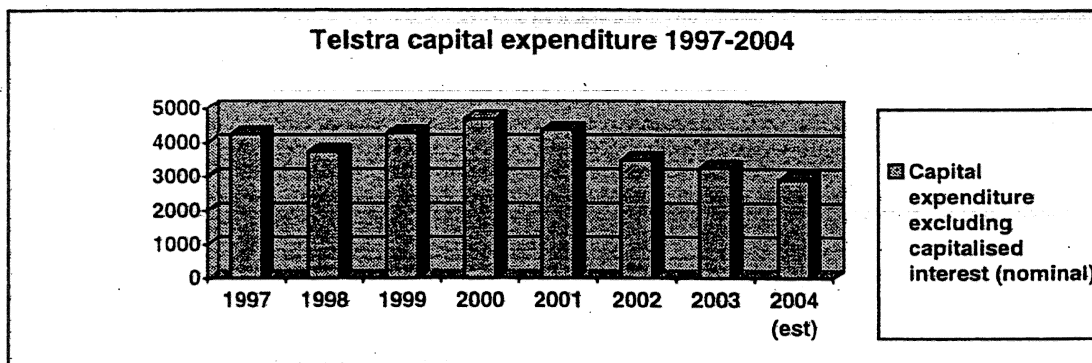
CPSA seeks support of only two critical recommendations as follows:

- For the numerous above stated reasons but more particularly for improved regulatory and competition creating reasons, CPSA calls upon Telstra to remain at the very least in majority public ownership.
- Improvement and strengthening of the Regulatory *Act of Parliament* with appropriate staffing and stronger application of the *Act*.

Attachment.



Source: Testra Annual Reports



Source: Telstra Annual Reports