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ENVIRONMENT, COMMUNICATIONS, INFORMATION
TECHNOLOGY AND THE ARTS REFERENCES COMMITTEE

Reference: Australian telecommunications network

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SENATE
ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY
AND THE ARTS REFERENCES COMMITTEE

Friday, 28 March 2003

Members: Senator Cherry (*Chair*), Senator Tierney (*Deputy Chair*), Senators Lundy, Mackay, Tchen and Wong

Substitute members: Senator Moore to replace Senator Wong for the committee's inquiries into the Australian telecommunications network and the role of libraries as providers of public information in the online environment

Participating members: Senators Abetz, Allison, Bolkus, Boswell, Brown, Buckland, George Campbell, Carr, Chapman, Conroy, Coonan, Eggleston, Chris Evans, Faulkner, Ferguson, Ferris, Harradine, Harris, Knowles, Lees, Mason, McGauran, Murphy, Nettle, Payne and Watson

Senator Greig for matters relating to the Information Technology portfolio

Senator Ridgeway for matters relating to the Arts portfolio

Senator Nettle for the committee's inquiry into environmental performance at the Ranger, Jabiluka, Beverley and Honeymoon uranium operations

Senator Wong for the committee's inquiry into the Australian telecommunications network

Senators in attendance: Senators Allison, Tierney, Mackay and Moore

Terms of reference for the inquiry:

To inquire into and report on:

- (a) the capacity of the Australian telecommunications network, including the public switched telephone network, to deliver adequate services to all Australians, particularly in rural and regional areas;
- (b) the capacity of the Australian telecommunications network, including the public switched telephone network, to provide all Australians with reasonable, comparable and equitable access to broadband services;
- (c) current investment patterns and future investment requirements to achieve adequacy of services in the Australian telecommunications network;
- (d) regulatory or other measures which might be required to bring the Australian telecommunications network up to an adequate level to ensure that all Australians may obtain access to adequate telecommunications services; and
- (e) any other matters, including international comparisons, which are deemed relevant to these issues by the Committee.

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Committee met at 9.06 a.m.**PINNOCK, Mr John Edward, Ombudsman, Telecommunications Industry Ombudsman Ltd**

ACTING CHAIR (Senator Tierney)—I declare open this public hearing of the Senate Environment, Communications, Information Technology and the Arts References Committee and welcome everyone here today. I also welcome our first witness, Mr John Pinnock, who will be providing evidence by teleconference. The committee prefers all evidence to be given in public. Should you wish at any stage wish to give any of your evidence, part of your evidence or answers to any specific questions in private you may ask and we will consider the request. You are reminded that evidence given to the committee is protected by parliamentary privilege. I also inform you that giving false or misleading evidence to the committee may constitute a contempt of the Senate. I invite you to make a brief opening statement before we move on to questions.

Mr Pinnock—I have no opening statement that I wish to make. I had spoken to Derek Drinkwater last year, when I was originally due to appear before the Senate committee, and said that I might want to make some comments about the ACA's discussion paper on broadband services and regulation. But that is pretty much water under the bridge now, so there is nothing I want to specifically raise with the committee. If the senators have questions of me, by all means fire away.

ACTING CHAIR—We will go straight to questions then.

Senator ALLISON—Mr Pinnock, the TIO publishes quarterly and annual complaints statistics. Could you start by indicating what the sorts of trends are in the three main areas that you collect complaints from? Do you have recent statistics, perhaps even on Internet services, which has been a focus for the committee? Are you finding that complaints are increasing or decreasing? Could you outline the position there?

Mr Pinnock—Certainly. We report on a financial year basis. If you were to compare 2001-02 and the current financial year, overall there would look to be a diminution in total numbers of complaints. But we are still dealing with, if you like, the absence of the One.Tel factor. When you make readjustments for that there is still an increase in complaints, which we have seen historically—in other words, there is an underlying trend once you have readjusted for One.Tel—but the increase in complaints in the current financial year is quite modest. That reflects, primarily I think, the fact that there has been less industry activity, and there are obvious reasons why that has been the case.

Looking at the three areas that we report on, again one has to be careful because in our last annual report for the first time we split complaint numbers into three—that is to say, landline, mobile and Internet. Previously it had just been telephony generally and Internet. So it is difficult to make trend comparisons, even though the Australian Communications Authority tried to do so in its last section 105 report by readjusting our statistics—and got some of them wrong. However, I can perhaps say that there are still perennial topics that come through in some complaint trends, and the most obvious one is billing. Billing is the No. 1 complaint across all three areas, and it always has been and I think always will be. But it varies from year to year. The most significant trend in billing in the last 18 months would be the rapid increase in

complaints about premium rate services, Internet dumping and Internet diallers. So much so that complaints of that nature now account for in excess of 20 per cent of all fixed-line telephony complaints. That does not sound a great deal but in fact it is, considering we are only talking about one particular area of the industry.

The other area of complaint where they continue to come forward in significant numbers are complaints about mobile phone contracts. I am probably sick of talking about that to the industry and the regulators. It continues to be one of the black spots for the industry.

Internet complaints are increasing generally. There is no significant individual trend there, although perhaps we are starting to get complaints about broadband services for the first time, reflecting greater uptake of those. The significant trend in Internet is that, since we gained jurisdiction over the Internet service providers in July 1997, there has been a trend upwards all the time. Starting from zero, Internet related complaints are now running at about 15 per cent of total complaints, and I have no reason to believe that trend will not increase.

Senator ALLISON—Are you able to receive complaints from people who cannot get access to broadband services?

Mr Pinnock—We can certainly take the complaints that they cannot get access. But, again, there are limits to what we can do there. We cannot, for instance, necessarily direct a member of the TIO—Telstra, or any other provider of broadband services—to provide a broadband service if either technically they are unable to do so or technically at that particular point they are unable to do so. We do not have those broader powers.

Senator ALLISON—Nonetheless, do you compile the complaints? Would it be useful for the committee to have access to the general areas where people complain about not getting access, or are there not just the numbers to warrant that?

Mr Pinnock—I would have to take that question under advisement because I am not sure how we actually capture those. They would normally go down as a provisioning complaint. We have very many categories and subcategories of complaint, but I am not quite sure whether we would be able to capture in a specific category a complaint about inability to access broadband. I would have to check with my IT people to see whether we capture it. There would be other ways of obtaining the information, but that would be the readiest way.

Senator ALLISON—It is not strictly within our terms of reference but I wonder whether you could expand on the billing problems and complaints. You said they were your No. 1 area of complaint. What does this lead you to recommend by way of accountability for telecommunications companies?

Mr Pinnock—In a sense it does not lead me to recommend anything other than the traditional response I always have, Senator. It is unremarkable to me that billing is the No. 1 area of complaint—it is the issue of most interest to many customers. The trouble with billing is that it covers such a huge range of issues. We have something like a dozen subcategories to split it up into. The No. 1 benefit or advance that reduces billing complaints is call itemisation. One of the most significant areas of dispute that we used to have was what we used to call metered call disputes—that is, disputes about local calls. As soon as Telstra moved to a situation where you could, for a small fee, obtain a print-out—it is not printed on the bill, of course, but you can

obtain independently a print-out of your local calls—local or metered call disputes virtually evaporated.

Another thing that is important in relation to the growth of 190 type disputes is the minister's most recent direction to the authority to bring in a price cap regime relating to 190 services of all sorts. Secondly, there is Telstra's decision, which it has recently announced, to withdraw from the Internet diallers platform. I think that will basically lead to a reduction in those sorts of complaints—although with this caveat: it is likely that those sorts of services will simply move offshore, and then we will have another issue to regulate. Beyond that, I cannot give any real insight into improvements in billing. The search for a perfect billing system is the Holy Grail of the telecommunications industry. There have been huge advances in both the accuracy of bills and the way they are prepared and the way information is given. There is nothing particular that I find the carriers are failing to do in that regard.

Senator MOORE—I am interested in the variation across the country. You have made comment about the variation between complaints from New South Wales, Victoria and Queensland as opposed to South Australia, Western Australia and Tasmania. I do take the caveat that there is always danger in taking too much from flat figures, but I would not mind hearing from you some comment about that variation across the country in the numbers of complaints you receive.

Mr Pinnock—My views about this are by no means accepted within the industry.

Senator MOORE—That is another caveat, is it?

Mr Pinnock—Telstra strongly disagrees with my interpretation of my statistics, and this is the first time that we have ever published these sorts of figures, which we intend to do annually from now on. The first thing is that, as a general observation, you tend to find lower levels of complaints—and historically we have found this—from South Australia and Western Australia whether you are dealing with regional, rural, remote or urban. I think there is a possibility, certainly in Western Australia's case, of—for want of a better word—a cultural divide. They see the TIO very much as an eastern Australian phenomenon, and they are on the west. I have spoken to many people in Western Australia about this and they keep telling me this. And there is a problem at the moment in the hours we are available to do business. We are trying to overcome that problem, but we may miss some Western Australian complaints simply because of the time difference.

One thing that is significant, though, is that three years ago the complaint rate from Western Australia was roughly five per cent when it had 10 per cent of the Australian population, and that rate has risen to 7½ per cent. South Australia is a bit unusual because historically the figures have always been low across the board and particularly so in Adelaide. I keep running into the suggestion by people who have a great deal of knowledge about Telstra's fixed line services in particular that Adelaide's fixed network is one of the best in the country. Why that is so I do not know. That is sometimes put forward as an explanation as to why complaint numbers from Adelaide and South Australia are a bit lower.

However, where it becomes an issue—and I have been talking about this recently—is in the differentials in complaint rates across Australia between the urban centres, inner regional, outer regional and remote. Although there are different overall rates for the different states—with

Victoria slightly above the average, at 2.2 per thousand, where the average is two per thousand—what you find across the whole of the mainland states in Australia is a fall-off in complaint rates as you move outside the urban concentrations. There is that caveat that it applies only to the mainland states because, the way this program works, the statistics for the Northern Territory and Tasmania in particular are skewed: the urban concentration statistics are based on distance from a city of 500,000, and of course there is no such city in Tasmania or the Northern Territory. This is not a phenomenon that surprises me. I expected it, but this is the first time we have been able to confirm it.

You will generally find with schemes such as the TIO, whether they be industry based or even statutory ombudsmen, that people's knowledge of your existence and your role tends to fall off as you move out into the remotest part of Australia. I think that is what my statistics are measuring. If it were something else, such as Telstra is suggesting in claiming that, for instance, it reflects an improvement in the underlying provisions of services and customer satisfaction across Australia, I would expect to get much greater lumpiness in the statistics. There would be much greater unevenness in that. You just do not see that. The fall-off rate is very smooth and homogeneous. With the exception of one particular area, which is delays in provisioning second lines in regional New South Wales—which is a bit spiky; it tends to be lumpy and does stick up—everything else is smooth and homogeneous. So I think we are measuring awareness levels or, rather, the lack of them, and that is an issue both for the TIO scheme and its members.

The only other possibility that we are talking about—apart from the suggestion that people in the bush are less likely to complain, which I just do not think is true—is that people in the urban concentrations and the major capital cities have access to, and tend to use, a greater range of products and services. But again, fixed lines, mobile telephony, Internet access—even if it is only dial-up—are reasonably available in regional Australia, so I do not think that is the explanation either.

Senator MOORE—When people come to you, do you stat how they found out about you?

Mr Pinnock—Yes.

Senator MOORE—What kinds of trends does that show? With the complaints that you receive, how do people indicate that they know how to get to you?

Mr Pinnock—There is some rubberiness in the figures because it is perennial source of reinforcement by me with my staff. They have to capture so much information that sometimes they do not quite manage to get that, despite the fact that I see it as very important. It is still the case that the No. 1 statistic shows that people are relying on directories. Funnily enough, in the front of the *White Pages*, whatever *White Pages* it is, state or regional in Australia, we have got a half-page ad, and people are still using that. That really surprises me. After that there is a whole series of ways in which people find out about us, including word of mouth.

Senator MOORE—I notice in your report and also in the media releases that you have got that as a priority in terms of public awareness.

Mr Pinnock—There is a committee consisting of members both of the TIO board and of the council which at the moment is actually debating what the rule or the obligation ought to be on members to publicise the scheme and how that might be carried out. We regard it as a quite

significant issue. Needless to say, the major portion of the TIO's budget is devoted to trying to resolve complaints. Out of a total budget in the order of \$6.2 million we devote about \$350,000 to public awareness, which is reasonably significant if you compare it with the other schemes, but it is a drop in the ocean in terms of what is needed. The real issue is what the members should do to publicise the scheme.

Senator MOORE—The stats that have been provided to us—which I think was your last report—are all itemised by issue. I do not know how anyone could work out all those little boxes. Are there many complaints that cross a whole range of issues—for example, if someone rings up and wants to complain but their complaint may spread through Internet, access, mobiles and billing?

Mr Pinnock—That would be very unusual. We certainly get complaints with multiple issues, and that is why when you count the issues there are always more issues than complaints. One of the things that is now starting to happen is that someone will ring and say, 'My original complaint was about billing but now I want to add to it a customer service complaint because no-one will deal with my original complaint,' or 'They have got it wrong,' et cetera. It is very rare to get an omnibus complaint across all areas.

Senator MOORE—There is such a wide variation across complaints—from annoyance and inconvenience to something quite serious or dangerous. How do you reflect that?

Mr Pinnock—We do not necessarily reflect the degree of angst, if you like, on the part of the complainant. That is a personal issue that my staff have to deal with. On the other hand, if the angst reflects the degree of seriousness of the complaint we certainly treat different complaints in different ways. There are the run of the mill sorts of complaints that we might categorise at the lowest level—at what we call a level 1. We refer the customer back yet again to their provider, but in the case of the big providers we refer them back to an escalated area with a special contact number that we know about but that no-one else does and a TIO reference number. When they contact that escalated area and give the reference number the people at the other end know that they have been to the TIO and know that if they do not resolve it now it will come back to us and we will escalate it ourselves internally. That is remarkably effective.

On the other hand, we might get a complaint where someone says, 'I am about to be disconnected and I have serious health issues.' We are quite likely to escalate that ourselves immediately to what we call a level 3 complaint, which is a serious matter. We have a series of complaint escalation and classification guidelines which give guidance to my staff about how to react, but also give them the discretion in a serious matter to raise it all the way up to level 3. They cannot raise it to a level 4. There are technical reasons in the scheme why they cannot do that. They can certainly categorise a complaint depending on their assessment of its seriousness.

Senator MOORE—We have been speaking with a number of the providers over various meetings and Senate estimates hearings and they all have their own mechanisms for listing and advising complaints. Is there any kind of liaison through your office with Telstra, Optus and all the others to compare the complaint mechanisms to see how a complaint that your office categorises as level 1 or level 2 fits in with the various assessments of the providers?

Mr Pinnock—No, there is no process for doing that, other than perhaps the daily contact we have with each other, which tends to be somewhat anecdotal. For instance, it is quite common

for a provider to have a go at one of my staff and say, 'This should not be a 3; it should be a 2,' or something like that. That is just the daily argy-bargy of complaint handling. There is no way that I know—and that is why we do not do it—of auditing or reconciling our views against the views of our members. Periodically we sit down with them and go through perhaps a batch of complaints. The only control work that we do on that is our own internal auditing of the way in which we categorise them. We are not able, as it were, to look at what we do and what they do. They are, of course.

Senator MOORE—As you said earlier in response to one of our questions, sometimes people engender a very serious degree of angst when they contact you. By the time they have contacted you they are pretty upset or they have a major issue. Is that degree of assessment then passed on to the provider? If your staff get a call from someone who is indicating really serious issues—for example, they just cannot get a phone connection or a broadband connection; they are just not a normal complaint—do you pass that through to the provider and indicate that?

Mr Pinnock—You mean that level of angst?

Senator MOORE—Yes—that it is really quite serious.

Mr Pinnock—No. I will tell you why. We think we do that by the way in which we classify the complaint. But the main issue my people have to deal with—and I do not want to sound rude about this—is actually trying to get past that angst. The first half of the conversation that an investigating officer or an inquiry officer will have in such a circumstance is basically trying to get the complainant to calm down and then getting at the complaint itself. It is more a matter of using interpersonal skills to deal with the complaint than of passing that on to the member.

ACTING CHAIR—Let us talk about the underlying trend for a moment. How far back do your trend lines go? What year do they start?

Mr Pinnock—They start from 1993, when we first set up for business. You will find that the rates of complaints over those years, in terms of increases, vary quite markedly. One of the great difficulties I have internally in preparing a business plan and budget is in trying to predict year in, year out what the complaint rates are going to be. One year they increased by three per cent, so the next year we decided we would allow for a modest growth on that of six per cent and suddenly we found that it was 19 per cent. The difficulty is that, in a sense, we are a classically reactive organisation. That is the whole point about complaint handling. But in this case we are reactive because it is the external factors which drive the complaints. The first one is the level of industry activity and the number of members of the TIO. When I say industry activity, I mean generally, in a sort of competitive sense: how hard they go after customers and how many new products and services they bring in. The other significant factor driving complaint numbers is the level of awareness in the general public of our existence and our role. If you were to average the trend lines over the period since 1993, they would be clearly escalating. I am talking about raw numbers.

One of the criticisms that is made of me by the larger members of the TIO when I publish the complaint statistics per member—as I do in each quarterly report and the annual report—is that they say, 'You haven't standardised these figures, John. They are just raw. The only way that anyone can properly interpret them is to standardise them on the basis of complaints per thousand customers or thousand lines in operation.' My response is: 'Fine, but it has to be all in

or none in.’ There is a singular reluctance by many of the providers to give me information such as their customer numbers. So the raw figures show an increase year in, year out. That does not surprise me either, given those two factors which drive complaint numbers. One of the reasons why there is a sort of flat line at the moment is that the industry has been very quiet for the last 12 months because of the dotcom disaster and because of simply huge costs in the industry. Committee members would be aware that there has been a drive by many of the major carriers to try to make themselves more profitable, largely by cutting costs left, right and centre. So in marketing terms it has been pretty flat.

ACTING CHAIR—I will come back to that point about standardisation in a moment. I take it there is no possible way that there are any meaningful figures anywhere comparing what happened in 1993 with what happened in the eighties and the seventies?

Mr Pinnock—No.

ACTING CHAIR—That was back in the days when Telstra used to love to give us a one-line item and then, when you said it was wrong, they would say, ‘We will cut your phone off.’ Do we have any comparisons with those days?

Mr Pinnock—No. There might be some data buried in the archives of Telstra, but that is the only place it would be.

ACTING CHAIR—I am sure that is where it will stay.

Mr Pinnock—There is no independent evidence at all, anywhere.

ACTING CHAIR—I will come to the issue of standardisation, because I have some expertise in stats. I find raw numbers, particularly through the communications revolution of the nineties, to be virtually meaningless because of the incredible diversity in the market, the nature of the products and the expansion of people’s use of various communication devices. Surely it will go up because of all those factors?

Mr Pinnock—Yes, of course it will.

ACTING CHAIR—It is a much larger, much more sophisticated market. So aren’t Telstra and those other companies right to say that you really have to standardise this and get it back to per thousand lines or whatever?

Mr Pinnock—You will not find any dispute with me there, Senator, but you have to put this issue in context. It took me two to 2½ years, working through my council, to persuade the major carriers and members that I ought to be able even to publish member-specific complaints. If I had waited around for the sort of data that I needed to standardise I would still be sitting on my backside doing nothing. I have always seen this very much as a leverage issue. The first thing was to try to get the right to actually publish the statistics. The second was to use the fact that they were raw as a leverage with the major members—and we would not be bothering looking at every single member; we would probably look at the top 25—to get access to the sort of data I needed to standardise. The only carrier that has given me any indication of support in this regard has been Optus, largely because when we published the annual report last year I noted that raw complaint numbers against Optus had gone up 30 per cent—to be met by the response:

‘That is because we’ve been a bit more active, John.’ So I absolutely agree with you, Senator, but the message is falling on deaf ears amongst the carriers.

ACTING CHAIR—People take these things at face value and say, ‘Complaints are going up.’ You could do a comparison using, say, car accidents: if you compare the raw number of car accidents in the thirties to the number now, obviously they are up; but when you take into account the increase in the number of cars and look at accidents per 1,000, they have actually gone down. I know you are saying it is difficult to get, but you cannot even start to make any meaningful comparisons on trends until you have that.

Mr Pinnock—You can make some, but they tend to be at the extremes. For instance, one comparison you can make is that the rate of complaints against Telstra in terms of its market share has actually fallen. Telstra’s market share has been falling, but at the moment the number of complaints about Telstra is roughly 45 per cent of the total—it varies down a bit: I think it has hit as low as 38 per cent. Ten years ago, when the scheme was set up, it was running at 95 per cent. You would expect the rate to fall off as competition bit, but you cannot tell me that Telstra has only got 45 per cent of the market, or of any markets, at the present time. So, at the extreme, there is a figure that shows that somewhere or other Telstra is doing something right because the complaint rates have come down. The other obvious example would have been One.Tel, which had 20 per cent of total complaints in the TIO but it could not have had more than two per cent of the market. So there is some benefit in them; I am not disagreeing at all with you, Senator. I would infinitely prefer to have the information to standardise these figures, and I would use it.

ACTING CHAIR—Can we come to the dissection of the complaints. Do you do any division or breakdown—for example, technical versus marketing versus billing—of types of complaints?

Mr Pinnock—No, not really. That is getting down into the underlying reason for the complaint in the first place. We would have data scattered throughout our database in relation to any individual complaint, but we do not capture it in any particular way. Perhaps the only one we would have—and this would be a very small number of complaints—would be about lack of coverage in mobile telephony where, particularly in suburban areas, we can feed that back to the carriers and sometimes they will go and tweak an aerial or something like that to fix a small black spot. But that is an exceptional issue. Generally, no, we do not have that sort of data.

ACTING CHAIR—But you seem to be indicating that the highest levels of complaints are in billing.

Mr Pinnock—Yes. As I say, much of it is simply people arguing about whether they have made calls or not and how much they owe.

ACTING CHAIR—Surely that is going to go up. Compare the old telephone line from home with people wandering around with mobile phones and also switching on the Internet and not quite understanding how much they are chalking up.

Mr Pinnock—You would expect it to go up but, on the other hand, there has been huge capital investment by the major providers in their billing system. As products and services increase, you would expect complaints about billing to go up; but, on the other hand, there is a

trend coming the other way because the carriers are getting more sophisticated in their billing systems. Again, there are of course exceptions to that. I would expect billing in any year to be somewhere between 25 per cent and 40 per cent of overall complaints, and it has varied between those figures historically.

ACTING CHAIR—But you said you did not do that breakdown between billing, marketing and technical.

Mr Pinnock—I am sorry; I may have misunderstood what you were getting at. I am saying that I know as a general trend the things that are happening in terms of capital investment in billing platforms and that sort of thing, but we do not capture that in any sort of statistical sense. My point is that, for instance, a simple issue such as itemisation of calls—which can affect local, long distance and international calls—can actually bring down complaint numbers significantly. On the other hand, your point is that with more products and services, complexity et cetera the trend might go upwards. I think that is right, but at the moment it tends to be plateauing.

ACTING CHAIR—I suppose the major focus of this inquiry in terms of preparing and checking all the marketing and billing complaints would be technical errors, because the thing we are particularly interested in is how connectivity is going—are people actually able to do things with telecommunications that they want to do? But you seem to be saying that you have no breakdown on, say, technical complaints, no trend line that tells us what is happening.

Mr Pinnock—You are asking: can I make any comments from my statistics about, for instance, the degree to which any-to-any connectivity is working in Australia? The answer is no.

ACTING CHAIR—That is really the sort of thing we want to look at. In terms of dissecting complaints in another way, some complaints are absolutely genuine and well deserved. Others are perhaps misunderstandings and others are frivolous. Is there any way of sorting the wheat from the chaff in that? You are saying complaints are going up, but maybe a lot of frivolous complaints are going up as well. Is there any way of discerning how serious and justified complaints are?

Mr Pinnock—We do have some statistics which reflect boundary conditions. First of all, if we judge a complaint to be frivolous, vexatious or trivial, we will not in fact categorise that as a complaint. We categorise it as what is called a non-allocated inquiry. That means that, whilst the cost of it has to be borne by the industry and the scheme as a whole, it is not listed as a complaint against any particular provider. We have categorised it that way for the last four or five years. We are able to track those raw number figures—how many complaints may be categorised under the heading of ‘out of jurisdiction’. So we have that figure.

All I can say is that, if you look at organisations such as mine, particularly one that has been going for, say, 10 years, they will all tell you—and I am saying the same thing—but will never be able to prove statistically that the average trend in complaints is that you are increasingly dealing with more complex and serious complaints. The reason for that is simply that, as you get better at your job and as the members of the scheme get better at the job under their own pressures and our leverage on them, what tends to be left after you have dealt with the low-level stuff is the more different and serious stuff. But I have never been able to figure out a way of proving it statistically.

By the way, of course we publish figures about outcomes of complaints as to whether they are substantially or partially in favour of complainants. They are regarded by many as an indicator of the worth of the scheme. I publish them because there is that expectation, but I do not actually think that is really measuring the question of who has a valid complaint or not.

ACTING CHAIR—Focusing on whether complaints are valid, I assume that when a bill is in dispute there is no enforcement action by the company if it is before your organisation as a dispute.

Mr Pinnock—That is the basic rule. The rule has two parts to it. We will not investigate a billing dispute if the customer has refused to pay those parts of the bill not in dispute. If they are simply saying, ‘I dispute part of the bill and therefore I’m not paying any of it,’ we will not touch it. If they have paid everything but the disputed portion, then the rule is that once we start investigating the member cannot take recovery action until we have finished our investigation.

ACTING CHAIR—Wouldn’t a lot of consumers use that as a strategy to delay paying a bill? Say they have suddenly got a 1,000 buck Internet connection bill that they did not expect. They say, ‘This can’t possibly be right,’ they complain—even though the bill is probably okay—and then they get a delay in having to pay by weeks, months or whatever. Wouldn’t people use that as a strategy?

Mr Pinnock—I do not think so. It is certainly not my experience. It assumes in the first place that they even understand the TIO’s view about paying non-disputed portions, but I am not saying it does not happen.

ACTING CHAIR—Are you underestimating the number of cunning customers that are out there?

Mr Pinnock—No. People can always use complaint-handling schemes to manipulate the system, but I think it is very much at the margin. I never get any feeling from my staff that people are trying that.

Senator MACKAY—My apologies for being late. I have three pages of typed questions for you which I am not going to be able to get through in 10 minutes.

Mr Pinnock—Yes, of course.

Senator MACKAY—If I provided them to you in writing via the committee—and I know you are extremely busy with no resources—I wonder whether you would countenance—

Mr Pinnock—I would be delighted to deal with them. I have a really tight schedule between now and 8 April, when I am heading overseas, so I will do my level best to deal with every question before I go.

Senator MACKAY—In that case I will cut to the chase in terms of my questions, so that you get the more apposite ones. I will see how I go—how about that?

Mr Pinnock—Yes, certainly; I am in the committee’s hands.

Senator MACKAY—When this inquiry met in Wollongong on 11 October, we heard some evidence critical of Telstra’s use of mass service disruption notices, and we were in receipt of some correspondence between the member for Throsby, Jennie George, the minister, the ACA and the TIO.

Mr Pinnock—Yes, I remember this.

Senator MACKAY—Would you outline generally what your concerns are? You articulated some of those in the correspondence, which I have, as to Telstra’s use of mass service disruptions.

Mr Pinnock—At the present time I do not have any particular concerns. First of all, I have not seen an MSD for some while, but it is something that we monitor very closely. Historically, my concerns, starting from when MSDs first started to be used, were that they tended to be used almost as a blanket. I can remember one mass service disruption that purported to basically declare the whole of Brisbane. A second one declared two-thirds of the services in Sydney, which was just an abuse of the system, but we are going back quite a few years.

The second concern that I have—or perhaps have had historically—relates to the delay in issuing the mass service disruption notices. The lag between the event and a notice being issued was very great, which suggested complete inefficiency on the part of Telstra in relation to those sorts of notices. My third concern related to any lag in actually notifying the TIO of the issue of such a notice. Those problems have largely been overcome. Notices now issued are much more tightly focused. There is a whole protocol that has to be gone through by Telstra people in issuing those notices. Furthermore, they tend to be more timely. Apart from, I think, one exception last year, where there was a slight delay in sending one notice to us, we get them in a timely fashion.

There was an argument on the merits about one of the notices in Wollongong, which was the subject of Ms George’s complaint and which both the authority and we examined. On the merits we were unable to conclude that there was a real problem there. But we look at it very closely and, of course, we are entitled to deal with any individual complaint. I cannot set aside a notice but I can deal with any individual complaint that suggests that the effect of the notice on that particular customer is incorrect. I suppose if, theoretically, there was a notice that covered 10,000 customers and we got 1,000 complaints—and we found all those complaints to be true—it would suggest that there was a fundamental problem with the notice. We have never reached that stage.

Senator MACKAY—I am interested in your comment that you have not seen a mass service disruption notice for a while. When was the last time you saw one?

Mr Pinnock—When I say I have not seen one, they are only brought to me when my people think there is a problem with them. They do not commonly come across my desk all the time; they go across the desk of one of my managers or my policy and research manager.

Senator MACKAY—When was the last time you personally saw one?

Mr Pinnock—The last time any of my people brought to me a mass service disruption notice that they had a problem with was some time last year—I think it was after the Wollongong

thing. I have the month of October in my mind, but I am not quite sure if I have the right time. It was an issue of delay in notification to us.

Senator MACKAY—I am wondering whether Ms George's letter may have prompted that being brought to your attention.

Mr Pinnock—No, the one I am thinking of came after Ms George's letter. I certainly remember Ms George's complaint quite well, but there was something—

Senator MACKAY—So, you are aware of that?

Mr Pinnock—Absolutely, yes.

Senator MACKAY—I am just a bit curious because, from my knowledge, there have been literally dozens of MSDs so far this year around Australia, including some fairly serious ones in Sydney.

Mr Pinnock—If there have been dozens, obviously none of my managers have been of the opinion that there was a problem with them, because they would have brought them straight to me. We have a very simple internal protocol about these sorts of matters. If there are instances where you believe notices were too broad, delayed, lacking in detail or where there had been a failure to notify either the authority or the TIO, I would be happy to look at them, but I am certainly not aware of any.

Senator MACKAY—There was one in Tasmania this week, actually, that was called because of a lightning strike. This was in my home state—

Mr Pinnock—Yes, I know.

Senator MACKAY—but there are far more serious ones. The one in Tasmania impacted on 122 phone lines, which does not sound like a lot but, in fact, the faults were very disparate and, in a number of extremely isolated areas in Tasmania—including King Island et cetera—Telstra issued an MSD for eight days to fix 122 phones. Are you aware of that?

Mr Pinnock—No, I am not.

Senator MACKAY—Would you regard that as one that may be somewhat questionable in terms of the length of time?

Mr Pinnock—Unless I see the notice, I honestly cannot comment, Senator. I do not know what infrastructure the lightning has damaged. If it is a situation where there has been a single strike on a single piece of infrastructure, then that sounds like a long while. However, if there has been damage along various parts of the customer access network, it may be reasonable. I am just not aware of it, but I am certainly prepared to have a look at it.

Senator MACKAY—I just used that as an example. I would have thought there was an inexorable nexus between the length of an MSD and the capacity of Telstra to sort out CAN faults.

Mr Pinnock—When I said Telstra has a protocol that it goes through before it issues these notices, I am more than happy that it has a protocol, but I have never been happy with the underlying approach to this whole thing. It is a way of assessing the productivity of the Telstra work force—the technicians—in dealing with faults and restoring faults in all situations, but particularly in situations of mass service disruption notices. I have never been comfortable with it, but it has the imprimatur, as far as I understand it, of the Australian Communications Authority. When you ask, ‘Are eight days too long?’ one of the ways that Telstra makes those judgments is to see exactly what work force it has available to deal with restorations. In a sense, it seems to me to be an almost circular argument. I do not have any control over that sort of thing. That is a matter for the authority.

Senator MACKAY—In fact, we have had the ACA in front of us at estimates hearings, and they have no power over determining the veracity or otherwise of an MSD. It is a notification process as far as they are concerned.

Mr Pinnock—Yes, I know. That is one of my problems with it.

Senator MACKAY—But you just indicated that, if it was okay by the authority it was okay by you, but they do not actually have any power.

Mr Pinnock—What I am saying is that, when we had all these arguments about MSDs some years ago under the first CSG, I raised a number of issues about how the MSDs were, if you like, calculated—what was the methodology. The ACA had the same problem. Telstra went away and devised a fairly elaborate sort of basis. I was never privy to the detailed discussions that took place between the authority and Telstra, but my take on the whole thing is that the ACA, as it were, signed off on it. I do not think it is quite correct for the authority to say that it has no way of dealing with this. The authority has very broad powers of direction in relation to carriers and carriage service providers. It is true that the authority has said, essentially, that this is a notification process, but it is more than a notification process because you are essentially allowing the carrier to self-declare an exemption under the guarantee. I have always had a conceptual difficulty with that. I have always taken the view that there should be much greater rigour in looking at the basis on which you calculate the methodology—there is that word ‘methodology’ again—but that is not a matter I have control over. All I am left to do is look at individual complaints about whether an MSD properly applies to that customer service.

Senator MACKAY—I understand that. Maybe I had a bit of a wrong take on your initial comments. What concerns me particularly is the fact that the ACA claim they simply do not have the power. We will get to the bottom of this eventually through this inquiry.

Mr Pinnock—There may not be a specific power; in fact, I do not know of any under the CSG itself. The authority has very broad powers of direction generally. It has the power, for instance, to establish service provider rules and to enforce those rules. It has the power to give all sorts of directions. There is the power, as I recall, for instance, where the carrier has problems of a systemic nature, to give directions in relation to fixing those systemic sorts of problems. I would have thought that would carry over to looking at the issue of how to calculate—the methodology used—an MSD.

Senator MACKAY—Have you actually thought about sitting down and basically providing an analysis or your opinion, plus some recommendations, with respect to this to the ACA?

Mr Pinnock—We have discussions with the ACA all the time.

Senator MACKAY—That is not what I am getting at.

Mr Pinnock—No, I have not done, if you like, a thorough analysis and put a submission to the ACA about it. Certainly, in the past, when we had arguments about this whole issue, when MSDs first started being used, I wrote numerous letters, from my recollection, to the authority about it. But, no, there has never been an attempt on our part to analyse the whole thing and try and persuade the authority to a particular position.

Senator MACKAY—It might be something worth thinking about.

Mr Pinnock—Sometimes my views fall on deaf ears at the authority too, you know.

Senator MACKAY—If you provide a copy to the committee it might assist. A lot of questions will emerge as the inquiry progresses. I think that it is going to be a fairly long inquiry because eventually there will be the T3 legislation. This is, in my view, inextricably linked to this inquiry. Would you consider appearing in front of the inquiry again in person?

Mr Pinnock—Of course.

Senator MACKAY—For a couple of hours, say; three or four?

Mr Pinnock—I could bring a tent with me and stay for as long as the committee wishes. As I say, I was more than happy to do so last year but then I came up against the fact that I was to be away. Again, I am tightly constrained at the moment, but I am more than happy to come along and spend as much time with the committee as it wants me to.

Senator MACKAY—That would be good. Because of the independent nature of your office, you cannot appear in front of estimates.

Mr Pinnock—That is not quite right. I have appeared before estimates.

Senator MACKAY—You can appear before estimates?

Mr Pinnock—Let me put it this way: I have done so.

Senator MACKAY—We might request you to appear. That would be very handy.

Mr Pinnock—I am thinking back a fair while—Senator Tierney would recollect this; it was in relation to the COT cases, and God forbid I should ever have a reprise of that piece of work. Perhaps I had better be careful here.

Senator MACKAY—I think the answer is that you are happy to appear.

Mr Pinnock—I have certainly in the past appeared before what I understood to be the estimates committee. I was never quite sure whether it was the references committee or the Environment, Communications, Information Technology and the Arts Committee which

suddenly transmogrified into estimates, but I was there when a whole bunch of Telstra people were there for estimates. As far as I was concerned, I was appearing before an estimates committee.

Senator MACKAY—We might check into that.

Mr Pinnock—The point is that you cannot force me to be there.

Senator MACKAY—But you have not got any in-principle problems with appearing before the representatives of the Australian people?

Mr Pinnock—No. I have appeared before numerous Senate committees as Ombudsman. I have no problem with appearing before an estimates committee, as long as the committee has no problem with asking me.

Senator MACKAY—And nobody can tell you otherwise, can they?

Mr Pinnock—No. As long as I am lawfully a witness before the committee, and as long as I am able to be protected in the normal way, as with any witness, I have no problem with that.

Senator MACKAY—We will get the secretary to have a look at that.

Mr Pinnock—I would prefer not to be in an area of contention with a major member of the TIO; I would prefer to be appearing on my own. My aim in saying that was that the last time—and I recall the occasion very well—I arrived early in the committee room and sat down at the very big, U-shaped desk. About 10 minutes later all the Telstra lot arrived and they literally sat around me. I was surrounded!

Senator MACKAY—Like the Mafia!

Mr Pinnock—I had to say, ‘Look, I know that you try to do this when you come over to the office in large numbers, but I don’t know if it looks appropriate to the committee.’

Senator MACKAY—We will have you by yourself at the U-shaped desk. You will only have senators sitting around you.

Mr Pinnock—That is fine. The only time problems I have is that I am overseas from 8 April to 30 April.

Senator MACKAY—That is fine. Estimates are in May. Thank you very much. We look forward to hopefully seeing you at estimates or, failing that, in front of this inquiry at a later date. Have a good time overseas.

Mr Pinnock—Thank you very much.

[10.09 a.m.]

HILL, Ms Ros (Private capacity)

ACTING CHAIR—I welcome Ms Ros Hill, who is giving evidence today by teleconference. Ms Hill, I understand you are giving the committee the benefit of the expertise you gained when you were a member of the government's Broadband Advisory Group and that you will have the opportunity to give evidence in person in Launceston in relation to your extensive submission made in conjunction with Mr Chris Dalton. Thank you for making yourself available today.

The committee prefers all evidence to be given in public, but should you wish at any stage to give any evidence, part of evidence or answers to any questions in private you may ask to do so and the request will be considered. You are reminded that evidence given to the committee is protected by parliamentary privilege. I also inform you that giving false or misleading evidence to the committee may constitute a contempt of the Senate. I invite you to make a brief opening statement before we move on to questions.

Ms Hill—I was a member of the Broadband Advisory Group, which met six times in 2002. We had a panel of national global advisers. Several consultations were conducted by the National Office for the Information Economy, which provided the secretariat for the Broadband Advisory Group. I also participated in two consultation processes, one in Melbourne and one in Sydney, that involved representatives from the telecommunications industry, and both public and private industry sectors, with an interest in broadband development in Australia. That concludes my opening statement and overview of the BAG process.

Senator ALLISON—The committee has the report entitled *Australia's Broadband Connectivity*, which your group, I understand, prepared. It makes a strong recommendation about the Commonwealth's role in the adoption of a national broadband strategy. Could you expand on that? How do you think the Commonwealth might be involved? What tasks do you think it should undertake? What sort of difficulties do you think might be involved in that?

Ms Hill—Certainly, the Broadband Advisory Group acknowledged that the Commonwealth needs to play a key leadership role, particularly in marketing the vision and the socioeconomic opportunities that strong broadband development and the strategic planning for broadband development in Australia could achieve. BAG members were also very clear that strategic planning for broadband connectivity in Australia cannot simply be managed by the Commonwealth government. It has to be done in a collaborative partnership between the Commonwealth, state and local governments and with industry. So many stakeholders are involved in the strategic deployment of broadband and the realisation of outcomes from broadband connectivity that it needs all players working collaboratively. That was a very strong theme that came from the BAG members.

Senator ALLISON—Is it your view that that is what is now happening—this collaborative working relationship?

Ms Hill—I am probably not in a position to answer that, Senator. I am not clear on the ‘where to from here’ for the BAG process. I am aware that there is an implementation group to be established but I have no knowledge of how that is going to be established or who is responsible for its establishment.

Senator ALLISON—What is the current status of BAG—if we can call it that? Will it not meet again? Has it finished its task?

Ms Hill—At our last meeting we were thanked for our participation by Senator Alston and I have had no indication that we are going to meet again.

Senator ALLISON—What is your view of the desirability of meeting again and seeing through implementation?

Ms Hill—I feel personally that it is going to be very important. I am also very interested to see how the implementation group will be established and how the terms of reference will be developed. I am particularly interested in ensuring that local government, community and consumer representation is established and also that of regional telecommunications carriers.

Senator ALLISON—BAG did not have those members previously?

Ms Hill—It had members representing education and health, but, no, it did not have direct local government representation. It did not have regional telecommunications carrier representation, which I think is really important for the rural and remote claims to the issue.

Senator ALLISON—We will put some questions on your behalf to the government on the future of BAG. An area which is of interest to me is broadband and general Internet services for the health sector, particularly for hospitals—for teleconferencing and the like. Can you recall what work you did in that field? I know one of the recommendations in your report is that there be further work done on this, but, in your experience, what were the advantages of moving quickly to provide better services in this field?

Ms Hill—I can speak about my direct experience in telehealth and e-health projects generally. There are huge opportunities for new services, particularly to support children and families. There are opportunities for broadband to support the delivery of services in key areas such as palliative care, mental health and a whole range of areas where people are very isolated. Broadband could play a key role in bringing specialist resources, professional, collegial support and supervision and also information for families directly through the Internet.

One of our projects is an online counselling service for students, which was developed on a broadband platform. Students identified the need for online counselling services rather than face to face. So I think there is a wide acceptance by consumers and communities that broadband can play a key role in health care, particularly where specialist resources can be made available to rural and regional communities, using broadband technology, either to support practitioners in rural and remote communities or to assist in professional development.

Senator ALLISON—Ms Hill, would you mind saying that again? Your voice was unclear over the telephone line in that last sentence.

Ms Hill—I feel that there are huge opportunities for the deployment of broadband to make a real impact, particularly for rural and remote health care, in a range of areas, such as mental health and palliative care. General practitioners could be supported remotely with specialist professional development. There is a whole raft of opportunities in health care.

One of the ideas I would have liked to have seen more clearly articulated was similar to our idea for education. In the BAG report we said we wanted some form of goal to be set and achieved for every primary school, every secondary school and every tertiary college to have broadband connectivity. Similarly, I would have liked to have seen every district hospital and every primary health care centre—perhaps without a target date—with at least a vision that they would have broadband connectivity. That would be particularly to support primary health care in rural and remote communities. A similar goal has been set in the UK broadband strategy.

Senator ALLISON—Thank you. That was perfectly clear. Would you recommend that the committee take a look at what is taking place in the UK in that respect? Is there a report that we could look at that you know of?

Ms Hill—Yes, there is. I can certainly provide the secretariat with a copy of, or access to, that report.

Senator ALLISON—Thank you. Could you tell us briefly what you think the barriers are to getting this right? Is it just that we need leadership at the federal level or are there cost and other barriers to be overcome?

Ms Hill—We certainly need leadership, but not just at the Commonwealth level; we need it at the state and local government levels as well. We need more information and awareness raising for small to medium enterprises and for corporate leaders on what broadband technologies can do for all sectors. Broadband is not something that can be driven by just one sector or one government. It needs a collaborative approach.

Senator ALLISON—Thank you very much.

Senator MOORE—Ms Hill, can you tell us where you are? This is a telecommunications inquiry and you are on a mobile phone, so where are you?

Ms Hill—I am sitting on the Midlands Highway, halfway between Launceston and Hobart.

Senator MOORE—Okay. I just think that is interesting.

ACTING CHAIR—We are glad the services are working well.

Senator MOORE—Almost—and we have not finished the hour! Ms Hill, I know your group has submitted a report to the government. Has there been a government response to your work?

Ms Hill—Not as far as I know.

Senator MOORE—Were you expecting one?

Ms Hill—Yes, we were. There would be an appreciation by BAG members and me that there have been other things on the government's agenda recently, but we would be expecting a response.

Senator MOORE—Did you have any expectation about what the period of time for that would be, allowing for the fact that there have been a few other things happening?

Ms Hill—I would have liked to have seen a response from the government in probably three months, simply because, in any initiative dealing with technology, things move on very quickly. So with a report on any aspect of technology, particularly in this area of telecommunications, things do move on quickly. I would not like to see the body of work become stale or the impetus that had been created and the expectation from the community consultation being lost.

ACTING CHAIR—Just a point of clarification: the report is *Australia's broadband connectivity 2003*. That is this year, and we are still only in March. When did the government actually get the report?

Ms Hill—The secretariat would have completed the report after the last Broadband Advisory Group meeting in November. I understood it was going to be launched in the first week of December, but it did not get launched until later.

ACTING CHAIR—Just to clarify: when did the government actually receive the report—what month?

Ms Hill—I am unaware when the secretariat would have actually completed it. Most of the work on the report was done by the NOIE secretariat, so I am not sure when they would have completed the report. I have not had any dealings with them since the last meeting of BAG in November.

ACTING CHAIR—Given that it is all about broadband, I would assume the government would be reading it in conjunction with the Estens inquiry and making an overall response. The time frame is not unusual. I do not think you can leave the impression the government has not responded, because of the time frame we are talking about. I just wanted to clarify that.

Senator MOORE—I am sorry if I gave any impression about that; it was a simple question as to if and when we had received a response. Ms Hill, I know you have a particular interest in the regional areas. Did you find any particular challenges for regional areas in the work that you did?

Ms Hill—I was not involved in the consultations with state governments. The NOIE secretariat did all the consultations with the state governments. I only had the opportunity to read the submissions that came in and the summary that NOIE did of the consultations they conducted with the state governments. My direct knowledge of that is only from the information that was provided to the BAG in the submissions or consultations. Certainly I got a strong sense that we need to understand the commercial incentives for carriers that want to enter into the regional broadband market. I got a sense of potential duplication of broadband infrastructure in the key market areas—Adelaide to Melbourne, Melbourne to Sydney, and up the eastern seaboard. I did not get a sense that there has been much work looked at as to how we can

encourage investment in regional areas for broadband infrastructure development. I look forward to the implementation group taking a keen interest in that.

Senator MOORE—What about infrastructure issues? Looking through the recommendations, I think just about everyone mentions something to do with infrastructure. Do you have any opinion that you would like to share on that issue?

Ms Hill—I am not really in a position to talk on infrastructure. I am not quite sure what you are asking about as infrastructure is such a broad area.

Senator MOORE—As a member of the group—and this would be your personal assessment—how effective do you think the group was in meeting the objectives set out for you?

Ms Hill—I think it was very effective. Given that we only had a short time frame—in fact we only met six times—and the number of submissions that were received, I think it was effective. The proof of the pudding is going to be in the implementation.

Senator MOORE—Were there any particular constraints that you felt as a participant?

Ms Hill—Probably only the time frame, which I can understand because you cannot stretch these sorts of reports out over a long period of time, because by the time you have finished the whole area has changed or new technologies have been introduced into the marketplace. I guess the biggest restriction I felt was the limitation of six meetings and that BAG members were only able to attend two consultation processes and hear directly from consumers and industry players what the issues were.

Senator MOORE—It was formed in March 2002. Was there any clear expectation of what the time frame was going to be?

Ms Hill—Only from the first meeting; we were told that there were going to be six meetings and it would be completed before the end of the year.

Senator MOORE—So it was within the context of the year, so your work was to be over by the end of 2002.

Ms Hill—As I recall, yes.

Senator MOORE—Did your group look at the issue of interconnectivity and competition, the whole issue of competition between providers?

Ms Hill—No.

Senator MOORE—I know that there was great discussion through the whole process of the issue of broadband, and you said the whole industry was changing so quickly. Was there any consideration of what the major obstacles were to the roll-out and take-up of broadband through all the fields that you looked at?

Ms Hill—Yes, there was but time did not permit any great level of debate at the meetings on it. A lot of work was done by NOIE on demand aggregation opportunities, and one of the recommendations within the report is that a stocktake be done of all demand aggregation projects that are being conducted by Commonwealth, state and local governments. But there was not a real lot of time for BAG to debate those issues.

Senator MOORE—Did major things come up in terms of what obstacles there were or was it just open discussion?

Ms Hill—From what I recall, it was fairly open discussion. Some of the discussion actually talked about some areas, particularly the need to ensure that the regulatory environment created an open playing field. Certainly there was recognition from BAG members that there needed to be a lot of work done to understand what the drivers were for investment by carrier regional areas, what sorts of incentives there needed to be, what sorts of demand aggregation responsibilities there were and the role that government had to play in that.

Senator MOORE—What about the issue of time frame for the roll-out of broadband? Was that discussed?

Ms Hill—The committee generally felt hesitant to put down time frames. I think there was a preference to look at different sectors and understand where the drivers—both socioeconomic and industry drivers—for broadband were. There was a hesitancy to actually put target dates to achieve roll-outs, in any sector.

Senator MOORE—How about issues of priority? When you read the recommendations, there are standard recommendations in a whole range of fields like health, research and education. Was there any consideration of priorities in any of those?

Ms Hill—No, there was recognition that there needed to be a lot more work done by the implementation group in each sector.

Senator MOORE—Was there any discussion about issues around the current telecommunications network?

Ms Hill—There was, but it was so broad ranging that I probably do not wish to comment on that area.

Senator MOORE—Was there concern about whether the major providers were doing enough to facilitate the roll-out of broadband?

Ms Hill—I cannot recall any direct discussion on that.

Senator MOORE—You are going to be appearing before the committee in Tassie, aren't you?

Ms Hill—Yes.

Senator MOORE—One of the issues was whether there were any particular issues in a state like Tasmania, and perhaps it might be more relevant to have that discussion in place.

ACTING CHAIR—The BAG report made 15 recommendations. I would like you to comment on one or two of those—particularly the one relating to encouraging take-up. For the record, could you, in a brief summary form, let us know what your group is recommending in encouraging take-up of broadband services in this country?

Ms Hill—This was where collaboration between Commonwealth, state and local government and industry stakeholders was deemed to be an absolute necessity. Understanding needed to be gained of the key sectors, and there needed to be an evidence base, a demonstration of the benefits of broadband applications in education and health care, before we could start looking at encouraging and developing a marketing and awareness campaign for broadband in the community and across corporate and government sectors. There needed to be very strong collaboration between state, territory and local government—basically, a stocktake of projects that were already under way and what their outcomes realisation was going to be from the investment in broadband.

ACTING CHAIR—So you actually undertook a stocktake, did you?

Ms Hill—No, it was one of our recommendations—

ACTING CHAIR—It was a recommendation.

Ms Hill—for discussion, for the implementation group to look at: ensuring not just the Commonwealth initiatives for broadband roll-out and take-up et cetera but what the state and local governments were actually doing and what industry was doing as well.

ACTING CHAIR—So, in terms of those partnerships between the levels of government, what have you recommended in terms of some sort of entity that might actually bring this about? It is great to say ‘Let’s have all the stakeholders collaborating,’ but what does that actually mean for what might happen in terms of any sort of structure to encourage take-up?

Ms Hill—The recommendation was to establish a broadband implementation group, which from what I recall was the entity to be established to look at the requirements of how this might happen.

ACTING CHAIR—You are the manager of the eHealth Planning Unit. We will just focus on that area, in terms of take-up and using broadband for health related matters. Let us put it in a Tasmanian context, as a regional area. How do you see that developing?

Ms Hill—For health care in Tasmania—

ACTING CHAIR—In your area. You now have a new tool called broadband. What will that do to enhance health services? What is your vision for how that should roll out?

Ms Hill—Particularly in rural, regional and remote areas, the only way, I believe, that broadband can be affordable and made accessible to a whole range of stakeholders in rural and

regional communities is if it is planned strategically and planned between Commonwealth, state and local government so that the infrastructure can be shared. There would be a central point in a community where the requirements for broadband could be used by health, hived off for education, hived off for local government, and used by a whole raft of other nongovernment and for industry development opportunities. To roll out broadband just for health in Tasmania would basically be a wasted exercise.

The cost is inhibitive, and we need to be collaborating and planning the infrastructure development at a whole of government level. We need to be aware of the local government and the industry opportunities in each community and, therefore, we need to also be aware of what Commonwealth initiatives or Commonwealth funding is available and pool the funds so that the broadband developments are developed strategically and the maximum outcomes for the broader community can be taken up. There is no point in health putting in broadband solutions that may or may not be used on a regular basis—only in emergencies or only for mental health or only for a specific purpose. We need to make sure that the broadband infrastructure is used as much as possible right across the broader community. That is certainly the approach that we are trying to take in Tasmania.

ACTING CHAIR—Let us talk about Strahan on the west coast of Tasmania, if you get this broadband connectivity at a certain point in that town. You say you do this for multiple purposes. How does that look in Strahan? How does that actually manifest itself if you have multiple users in the one small centre?

Ms Hill—I am not a telecommunications infrastructure specialist, so I am not going to give you a technical overview of—

ACTING CHAIR—No, I am not talking about the technical overview; I am talking about the end point.

Ms Hill—At the end point there would be a point of presence where each stakeholder could access the level of bandwidth that they require for their particular application. They pay an overall cost to have the point of presence in the town of Strahan. So they pay a percentage cost to have the facility there and then they pay the cost of the bandwidth that they use from the facility, which is much different to what happens now. I have had to put a telehealth studio in Strahan which covers that town for the number of tourists et cetera that Strahan is now taking. If there were an emergency at Strahan, we would want to know that we could be supporting the local health care professionals there in an emergency and that we were coordinating an emergency response.

We have had to put individual and high cost ISDN lines in at Strahan. If we moved to a shared broadband environment, I would then be able to not just run our videoconferencing—the current ISDN is a stand-alone videoconferencing type application for telehealth—but I would be able to also install electronic health records on a statewide basis. Strahan would be included, so I could run data applications, video applications and voice applications. I could aggregate all my bandwidth requirements into one solution and I would be paying a percentage for the cost of getting that infrastructure to Strahan. I would be sharing it with education, police, fire, emergency services, the tourism industry, and any other major stakeholders there.

ACTING CHAIR—Thank you very much for giving us your views today.

[10.41 a.m.]

HODGSON, Mr Les, Executive Director, Information and Communications Technology Division, Department of Corporate and Information Services, Northern Territory Government

ACTING CHAIR—I welcome Mr Hodgson, who is giving his evidence by teleconference. The committee has before it your submission, which we have already published. Would you like to make any alterations or corrections to the written submission?

Mr Hodgson—I would like to add one new development that has occurred since the delivery of that document.

ACTING CHAIR—Would you like to do that in your opening statement?

Mr Hodgson—Yes.

ACTING CHAIR—The committee prefers all evidence to be given in public, but should you wish at any stage to give any evidence, part of evidence or answers to any questions in private you may ask to do so and the request will be considered. You are reminded that evidence given to the committee is protected by parliamentary privilege. I also inform you that giving false or misleading evidence to the committee may constitute a contempt of the Senate. Finally, I point out that as an officer of the Northern Territory government you will not be expected to answer questions which would invite you to express an opinion on matters of policy and that you will be given reasonable opportunity to refer questions to superior officers. I invite you to make a brief opening statement before we move to questions.

Mr Hodgson—Thank you. As you will see in the submission from the Northern Territory, our key focus is on the delivery of telecommunications services into remote communities. This is an area that basically is unattractive to carriers and therefore competition fails to deliver equitable services into those areas. The Northern Territory has some 300 remote communities, and all our remote communities are Indigenous, with populations of between 50 and 2,500 people. In 14 of those communities over the last 12 months we have piloted the Electronic Outback Project, which has delivered enhanced services into those communities. This includes videoconferencing, Internet and enhanced telephone and more reliable telephone services. It has had limited success but it has given us some insight, since we put in our submission, into how we see better ways for service delivery into remote communities.

Basically, where those services are delivered into areas where reliable telephony exists and it is prepaid, it is very popular in the Aboriginal community. The Aboriginal community have very little or no text culture and, where there is public Internet access, apart from kids wishing to use Internet it really does not have a great attraction for the community in general. However, video and visual communications for those communities is very strong. Our conclusion from that is that it is not just about the delivery of infrastructure and services; it is about engagement of the end users, who are not traditional users as the rest of Australia are, and finding appropriate ways for them to use the technology. In those communities we have predominantly a First World

strategy of providing Internet and broadband, but existing in a Third World environment, and it does not work.

We mentioned one particular solution in our proposal, which is to get the infrastructure there. If there is to be a new USO, let us have it locked in for all time so that, for example, where any service is available to a householder or a small business in a metropolitan area, a comparable service—it need not be the same technology—is made available to remote communities within a time frame of, say, two years. Our new addition to that is what we have learnt in the last six or nine months—that is, to see it as not just an infrastructure and service availability issue. There has to be active engagement to encourage and find ways for telecommunications services to be usable by those remote communities. Our proposal, which we have submitted in recent inquiries, recommends something like Telstra CountryWide. It would not be an infrastructure owner; it would be at a retail level, with specific Indigenous marketing units. It would have substantial government ownership, would not have the same commercial rates of return accountabilities as the rest of the Telstra Corporation and it would have a specific charter to customise its service delivery solutions to rural and remote communities. That is my initial submission. Thank you.

ACTING CHAIR—Thank you very much.

Senator ALLISON—I am interested in what you have to say about the pilot projects. Could you expand on how videoconferencing is being used? You said that was the most successful. What kind of communication takes place on that? Can you expand on that for the committee?

Mr Hodgson—It is a public access videoconferencing service, so it has two different types of users. The first is the Indigenous community and the second is the people operating the agencies who may require videoconferencing services back to their head offices, be they Education or Health. The biggest community use we have is by families. There may be 10 or 20 Aboriginal people in an extended family who will have videoconferences to a loved one who is sitting in the Alice Springs or Darwin jail. That is probably the largest use of the service. Videoconferencing is a bit like the first telephone: it is not much use to anybody, but as you extend the availability of it the usage picks up. Because only 14 sites are connected, there is little intercommunity videoconferencing but there is substantial community to prison community videoconferencing. That is probably the main use that the Aboriginal community has for it.

Senator ALLISON—The prison population includes substantial numbers of Indigenous people from remote areas.

Mr Hodgson—That is who they would be contacting, yes. That is right.

Senator ALLISON—What about use by students? This committee did an inquiry into Indigenous education a couple of years ago, and one of the serious problems with getting students to more central locations where they could study in teaching courses was the lack of contact. Do you see that as an opportunity and are you exploring it with those Indigenous communities?

Mr Hodgson—I guess this is where there is a little bit of difference between two end users in the communities. One is the community itself and the other is the agencies that deliver services

to the community. We have some 180 communities connected by an educational network called LATIS, which delivers both video delivered teacher-student services and also the Internet. We find that the Internet is very popular with the Indigenous population in schools. The thing is that that infrastructure and service is not necessarily available to the broader community outside school hours. It is very successful for the students who use it, who are becoming Internet savvy very quickly, but it is not necessarily an appropriate environment for the broader community to use.

Senator ALLISON—That was not quite my question. My question was: if you have a great demand for families contacting other family members who are in jail in Alice Springs or elsewhere, is it just that group using the service or are you finding students who are studying away their families—which seemed to be a major barrier to further education for many Indigenous students—are using it also? Is this an area that you are exploring and pushing?

Mr Hodgson—We have not explored that as an avenue at this stage, no.

Senator ALLISON—You suggest that there is a problem of cost with satellite connections, so I think you are arguing that broadbanding services should be terrestrial. Is it just the cost or are there locational problems associated with satellite use such as the heavy rain you experience in that part of the world?

Mr Hodgson—It is dual. In the long term, terrestrial communications are the more reliable communications. There are a certain number of applications that do not run very well on satellite because of the time delays. Even with video, the voice and visual synchronisation can be a little bit deceiving. With a number of data applications for various agencies, the latency they find a little bit difficult to use with satellite. Notwithstanding that, it is a very good medium for broadcast video services—that is, from the central teacher to students. Although we would see that terrestrial telecommunications in the longer term have the long-term benefit of reliable services, I guess we also see satellite as an interim solution. In the last eight or nine months we have also seen, as part of the USO package, some very low cost satellite subsidised services coming out from Telstra, which has made it more attractive.

Senator ALLISON—How realistic is it to deliver broadband services to all of your 300 remote communities? I imagine many of them do not have power or water supplied. Is it really realistic that broadband might be delivered to those areas?

Mr Hodgson—I think it is. I think we have seen that in some of the 14 communities that I mentioned that currently have the Electronic Outback Project. Power can be enhanced by solar power to make the services work if there are problems with local generation. I think also there is a broader picture concerning the sustainability of these communities because of their remoteness and the fact that sometimes for six months of the year they are inaccessible. If the products of these communities—their produce, their commerce, whether it is artforms or desert knowledge awareness—are going to survive, they will have to be developed in some digitised form. So communications are probably more relevant to their ongoing potential, their long-term self-sustainability, than most other technologies.

Senator ALLISON—You talk about the problem in getting a view about the capacities or the telecommunications network within the Northern Territory and you complain that carriers rely on commercial-in-confidence in providing that information. Can you give us some details of

any approaches you have made to the carriers and how this commercial-in-confidence has worked in practice?

Mr Hodgson—We have a good working relationship with Telstra but they are reluctant to hand out the plans of their existing locations that are accessible by better services, such as ISDN, or in fact where they plan to be delivering those services over the next two or three years. We have approached them a number of times and there is some reluctance to provide that information.

Senator ALLISON—So there is a queue of competitors there willing and keen to do the same thing?

Mr Hodgson—To provide the services or seek the information?

Senator ALLISON—Provide the services.

Mr Hodgson—No, there are very few competitors.

Senator ALLISON—So one wonders why commercial-in-confidence is such an issue.

Mr Hodgson—I think it may well be that it may generate public concern or political concern about the priorities they are delivering services to and that may create some problems for them. I can only anticipate that might be a reason for doing it.

Senator ALLISON—Is there something you would like to suggest to this committee by way of dealing with that? Ought there be proper public access to such plans?

Mr Hodgson—I would say so. As you indicated, there are very few competitive reasons why that information should be held in confidence. To make it public so that the community and governments know, and are able to plan and work together to supplement those areas that perhaps are not going to be serviced for some time, would give us—and, I think, Telstra—a better view of how to do that. So, yes, I would welcome that information being public.

Senator ALLISON—Thank you very much, Mr Hodgson.

ACTING CHAIR—Before I call on Senator Moore to ask questions, I want to ask you about some information you have on page 5 of your submission, where you point out that the Northern Territory government views telecommunications as part of a community development tool. Could you outline for us your vision for broadband is in that context?

Mr Hodgson—I think there are different views about what broadband is. I know that broadband inquiries have had some definitional issues. I think the quantum advantage that broadband delivers is more than just fast Internet; it is the ability to emulate visual communications. I think that is its greatest advantage. I guess that is where we would see the key benefits of broadband. Indigenous communities in particular are far stronger on visual communications; as I mentioned, they did not have a text culture. So we would see broadband having a high priority in remote Indigenous areas because of its ability to deliver visual—that

is, face-to-face—types of communications, or even applications that are presented in visual forms that can overcome language difficulties and problems.

ACTING CHAIR—For some of the more remote communities—and you gave us a huge range of sizes of those communities, right up to 2,500—on what sort of level do you think the provision of broadband services would be viable, given the geographic issues?

Mr Hodgson—In terms of expense or in terms of the services available?

ACTING CHAIR—In terms of services available, what is doable, given the constraints of geography and scale?

Mr Hodgson—Over a period, if we were to focus on the communities with, say, a population of more than 100, which might account for about 200 of our remote communities, and delivery into those areas of publicly accessible broadband services and Internet services, possibly with kiosk types of applications initially to help the communities because they are not familiar with using the Internet, that is 100 communities, less the 14 that are currently delivered to under the Electronic Outback Project. There are a further 23 communities to be delivered, from Networking the Nation funds, from a project called the Outback Digital Network. So there is probably a net of 60 or 70 communities, and we estimate it would cost in the region of \$25 million to set up the infrastructure into those communities for public access broadband and Internet services.

ACTING CHAIR—If you had that for those 60 or 70 communities, what sorts of services would you envisage would be there that are not there now? How would broadband enhance what is happening in those communities?

Mr Hodgson—There are two ways. One is the public access videoconferencing. As I mentioned earlier, the more the communities have videoconferencing, the more one community will use it because it has a greater number of its colleagues and families to contact. That is one major area in which videoconferencing would be used. The second area is in increasing use—initially on a sort of kiosk basis because the Indigenous community, apart from the children, are not necessarily PC or text Internet literate—to get better access to government services by an intermediary in a sort of kiosk format, which would also enhance the delivery of those services into those communities.

ACTING CHAIR—So there would a facility in the community. There is one in Scone, in New South Wales, which they call the Cyber Centre.

Mr Hodgson—Or remote telecentres—yes, that is right.

ACTING CHAIR—It was attached to an organisation which would provide a bit of staffing and help for people who wanted to use the services for whatever purposes. Are you envisaging a similar sort of thing?

Mr Hodgson—Yes. I think the key issue here, as I mentioned before, is the need for some person or organisation with a lot of local community engagement in order to engage a community. Things in a lot of places—possibly even in Scone, which you mentioned—may be run by the business council or someone like that who can relate easily to the community. It

almost needs an Indigenous person to engage with the rest of the Indigenous community in order to deliver those services. That is where we see the difference. We have seen that traditional ways of engagement have been somewhat less than successful.

ACTING CHAIR—One of our committees which I was on went to the Northern Territory in relation to Indigenous education. I appreciate the point you are making there in terms of doing that.

Senator MOORE—In your submission you state that the Northern Territory will continue to rely on the universal service obligation—the USO. That is stated quite openly. What do you think are the advantages and disadvantages for your territory in relying on that?

Mr Hodgson—On the USO?

Senator MOORE—Yes.

Mr Hodgson—I think without a USO there would not be one telephone service in remote communities. As I mentioned, it is not a commercially viable environment for any operator to operate in at this stage, and it is not worth their investment to try and encourage the use by the community of telecommunications and generate a market. So the USO is absolutely essential for remote areas where competition policy will not deliver telecommunications services.

Senator MOORE—Do you think the USO meets the needs?

Mr Hodgson—I think I mentioned before that it potentially goes part of the way there. Providing the most viable Internet, video and telephony services into remote communities, without engagement of the community, is only half a solution. The infrastructure and services need to be there, and they perhaps need to be underpinned by a USO. But, in fact, there needs to be something extra that will engage the use of those services in ways that are appropriate to Indigenous communities and which are quite different from the ways that you and I might use it.

Senator MOORE—We have heard from a number of people who talk about the need for cooperation between the various levels of government to ensure that there is an effective roll-out of broadband and also an effective communications system. What do you see as the role of the Northern Territory government?

Mr Hodgson—I think the role of the Northern Territory government is really to engage the parties. It is also, where possible, to use the infrastructure it purchases from the Telstras and the Optuses of the world. I mentioned before that the education department's interactive distance learning looks for ways, as we currently are doing, where the infrastructure and broadband services used by those agencies can be opened up and made available in some way to the communities. In effect, they can get use of that broadband—and perhaps it might be after normal hours—at some very low incremental cost so that the price barriers do not inhibit use.

Senator MOORE—Earlier in some answers you mentioned services like the Outback Digital Network. I am wondering about alternative forms of technology that may be more useful in the quite specific geographic arrangements where you live. Has the Northern Territory been involved in supporting any alternative technologies?

Mr Hodgson—Although we have a preference for terrestrial technology—we believe it delivers a better service overall—we are not locked into any technical solution and will look at any one that will work well. We will support the ODN proposal, which is predominantly terrestrially delivered through Telstra’s network. The Electronic Outback Project I mentioned that covers 14 communities is satellite delivered by Optus. We also support that one very much. Are there new technologies? I guess I would make the statement again that I do not know that technology is predominantly the inhibiting factor for remote Indigenous community take-up. It is local community engagement that is the fundamental inhibiting factor.

Senator MOORE—That is almost self-evident—to engage the communities in it. How do you envisage making that work?

Mr Hodgson—For the current proposal put forward by Outback Digital Network, which looks to deliver broadband and other Internet type services into 23 remote communities—separate to the 14 Electronic Outback Project services—their whole business model is premised on having in their business operations locally based Indigenous people who actually engage the local community, so it is owned by the local community as much as anything. It has yet to be tried—it does not commence roll-out until next financial year. But we feel that that potential business model—at least on paper and from our experience—has a much better chance of working to find ways that communication services can be used for the benefit of the Indigenous population.

Senator MOORE—What is the reporting process for that particular model?

Mr Hodgson—It is funded by Networking the Nation. There is a \$10 million allocation to ODN for that and they will be reporting through the NTN deed. That is the major official arrangement for reporting. The government will be also supporting ODN’s bid, and we are currently involved in negotiations and arrangements to look at the actual detailed reporting that ODN will be providing back to government for their performance.

Senator MOORE—And the time frame for that?

Mr Hodgson—The time frame for that would be over the next three months before the commencement of their services early in next financial year.

Senator MOORE—We had an issue brought to our attention generally by Warren Snowdon’s office last year about a situation in—and excuse my pronunciation; I have enough trouble with Queensland communities without going into those in the Northern Territory—the Amata Anangu community. The office talked about the loss of all phone connections for four days. Apart from the matter of direct phone communication, the issue that was raising concern was that there was no access to EFTPOS facilities, which meant that there was no money to buy food and that kind of thing. Was the Northern Territory government aware of that?

Mr Hodgson—I am not personally aware of the incident there. I know we have a number of communities that may well lose service during the cyclone season and they can be inaccessible for a couple of days. I am not 100 per cent sure but I think local communities have ways and means of making sure that the population can still secure food. Most of the shops there are run by the councils, who are very much aware of the situation. So I am not sure that even a lack of

EFTPOS services would have caused any real problems in terms of the acquisition of food and things like that.

Senator MOORE—It is about commercial transactions though. I am sure that the Northern Territory is well experienced in trying to survive those things but it was the fact that the communities were now linked in to what we all accept—an EFTPOS arrangement—and that when it goes out there is the particular impact on a place that is so remote. Another issue is access to mobile phones, which you say in your submission a lot of us take for granted. There was the announcement by the federal government of a program to provide mobile phone services to communities with populations greater than 500 people. Are you aware of the take-up of that in your regions and how successfully it is going?

Mr Hodgson—That has been pretty successful. I would say most of the users of that are not necessarily the Indigenous community; most of the users of that would be what we call the white community. There would be a low take-up of mobile phones in Indigenous communities.

Senator MOORE—I have a particular question about four communities. I have been to two of them. They are Galiwinku, Maningrida, Port Keats and Milingimbi. From your experience, are they smaller than 500 or in the more than 500 people category?

Mr Hodgson—Most of those would be larger than 500. Port Keats, which you mentioned—which is the Wadeye—has a particular problem in that it is currently inaccessible by terrestrial means. That means that a mobile phone service would have to be delivered via satellite. I think there are some technical problems in making that workable.

Senator MOORE—Are you aware whether those three and Port Keats, with its particular problems, have got that mobile phone service yet?

Mr Hodgson—I know Port Keats has not, and I would suspect—

Senator MOORE—Because of the satellite stuff.

Mr Hodgson—That is right.

Senator MOORE—The other three you are not quite sure of?

Mr Hodgson—No.

ACTING CHAIR—Thank you very much, Mr Hodgson, for appearing today.

Mr Hodgson—Thank you.

[11.10 a.m.]

McDONNELL, Mr Brian Patrick, Policy Analyst, Vodafone

SCHUBERT, Ms Georgia-Kate, Manager, Government Affairs, Vodafone

ACTING CHAIR—Welcome. The committee has before it your submission, which we have already published. Are there any changes you would like to make?

Ms Schubert—No, there are not.

ACTING CHAIR—The committee prefers all evidence to be given in public but if at any time you wish to give any evidence, part of your evidence or answers to any questions in private then you may make the request and the committee will consider that request. You are reminded that evidence given to the committee is protected by parliamentary privilege. I also inform you that the giving of false or misleading evidence to the committee may constitute a contempt of the Senate. I now invite Ms Schubert to make an opening statement before we move to questions.

Ms Schubert—Thank you. Vodafone welcomes the opportunity to appear before the committee today, and we believe we can provide some unique information to assist the committee in its inquiry. As you may be aware, Vodafone has operations in 28 countries, working within a wide range of economies, geographies, cultures and regulatory regimes. Vodafone is a wireless communications specialist, which we believe has been and will continue to be a key to our success. At times we have been presented with opportunities to become an integrated telecommunications carrier but have rejected these prospects because it would lead to a lack of focus and conflict within the organisation. Our success is determined by how well we develop and offer an ever-expanding suite of products and services and how well we compete with other service providers.

However, as we go forward, the technology used to deliver services will not define the users' experience in the way it has in the past. Mobile networks will and do support voice and data services while also enabling Internet access and access to content and traditional broadcast. However, as Vodafone has expressed in many fora, including our submission to this committee, we strongly believe that overregulation can stymie an opportunity before it gets off the ground. Consequently, we strongly believe that customers and the economy are best served where customer choice and the provision of service is not constrained through market specific regulation.

Also as outlined in our submission, the government's frequent fiddling under the regulatory bonnet has compounded the complexity of the current regime. This in turn has ensured that Telstra, with the greatest scale and scope among the telecoms carriers, is best placed to absorb and stage-manage these ongoing tweaks to their best advantage. It is clear that the current situation cannot be corrected by further tweaks under the bonnet. What is required is a review of the entire telecommunications industry regulatory regime. To that point, Vodafone encourages reforms that more closely align sector specific regulation with generic competition law. This will ensure that a consistent regulatory approach is enforced to cross a wide range of industries,

which is vital in a marketplace of convergent technologies and vigorous competitive pressures from outside what was traditionally viewed as the telecoms industry.

It is also essential that there is an appreciation amongst stakeholders that market based outcomes in a dynamic market such as the telecoms market should be encouraged and explored fully before intervention is considered. In all cases, intervention should only be directed at durable market failure. It should not be applied as a just-in-case measure. Furthermore, investment decisions, including commitments to new infrastructure and services, crucially depend on an assessment of regulatory risks. To that end, Vodafone acknowledges the government's recent legislative amendment enabling potential investors in telecoms infrastructure to obtain up-front certainty through undertakings to the ACCC. However, we remain uneasy about the inherent risk of regulatory overreach—the trend of regulation extending to competitive parts of the market as a measure just in case anticompetitive behaviour arises in the future. The risk of regulatory overreach impairs incentives to invest in new networks and services which leads to poorer outcomes for customers. To ensure that customers are able to access services—what they want, when they want—it is essential that new markets are provided with opportunities to operate effectively by themselves rather than applying regulation as a just-in-case measure.

We are also very concerned that the government has had a part to play in creating barriers to entry through a range of industry specific taxes such as licence fees, spectrum fees, numbering fees and service obligations. Again, this places smaller market participants at a significant disadvantage as Telstra is much better placed, through scale and scope, to absorb industry specific levies and taxes. The outpouring of investor funds through these levies and taxes serves to disadvantage consumers by decreasing available funds for investment. As Vodafone has stated in various fora, we believe that to promote industry development the government should not tax players up front. It is important to note, however, that we are not asking for hand-outs or a free ride from the government. But it is our view that taxes on individual firms should be broadly related to profits earned.

Specifically, we would like to highlight the following examples of levies and taxes. Firstly, there is the universal service obligation, or USO. We do not question the social objectives of the USO; however, we consider that the current industry funded USO provides Telstra with significant competitive advantages and we believe that it is inappropriate that the government imposes a specific up-front tax on industry to fund Telstra to deliver a social policy outcome. Secondly, there are the numbering taxes. Tens of millions of dollars are collected annually from carriers for taxes levied on some but not all numbers. These numbers include mobile numbers. Those numbers not included are geographic numbers. This further highlights the inequity of some taxes and entrenches Telstra's position as best placed to absorb these up-front costs. With over 12.6 million mobile services in operation in Australia, mobile users should not have to subsidise fixed line users.

Lastly, the government has recently provided significant subsidies to encourage the deployment of network facilities in uneconomic areas. A significant amount of this money has been allocated directly to Telstra to fund the expansion of its CDMA network—a network that is effectively a proprietary network. Importantly, less than 10 per cent of Australian mobile users are connected to this network. The overwhelming majority of Australian mobile users are GSM users and are unable to benefit from enhanced CDMA coverage. Vodafone believes that the funding of the Telstra CDMA network—infrastructure which less than 10 per cent of the

Australian user base is able to access—is not the optimal outcome for funding social objectives. The government should ensure that future funding is directed to services benefiting the maximum number of Australians and is not merely based on geographical parameters.

As the committee is aware, Vodafone is committed to the Australian marketplace and our success will continue to be determined by how well we perform and compete in that marketplace. Potential and realised success should not be inhibited by misdirected regulation, industry specific taxes and suboptimal social policy outcomes that continue to fund and support Telstra's dominance. We would be happy to answer any questions that the committee may have regarding the issues that we have raised.

ACTING CHAIR—I have one or two. I was not going to ask you any questions but you have provoked me into asking some. In this country we have a tradition in communications of recognising that we have a very widely scattered and distributed population. This recognition started in 1901 with the postage stamp that had a common price regardless of where you posted. As an underlying theme, you seem to be presenting the idea that we should not have universal service obligations in this country.

Ms Schubert—We are certainly not saying that we should not have a social policy objective, purported by the government, but how it is funded is the question that we are raising. For an industry to fund Telstra, which is the incumbent, to provide a service is not the most effective way to fund the social objectives of the government.

ACTING CHAIR—How would you suggest that they be funded?

Ms Schubert—The European Commission—as we have raised in our submission—has acknowledged that industry funding which goes to an incumbent is not necessary if the incumbent gains other advantages, such as revenue from universal service provisions, brand enhancement and other things. So if the government decides that there is a gap to fill, that should be funded by consolidated revenue. Competitive tension may well be introduced by putting it out to tender, similar to what the government has done in some previous activities.

ACTING CHAIR—So you want to slug the poor old taxpayers a bit further, do you?

Ms Schubert—We are all taxpayers, Senator Tierney.

ACTING CHAIR—But you are saying that even though you are in an industry that derives considerable profits as a very rapidly expanding and dynamic industry, you have no social obligations at all. Is that what you are telling us?

Ms Schubert—If the government has social objectives—

ACTING CHAIR—I am talking about companies in the industry. The government obviously has social obligations.

Ms Schubert—Vodafone is not subject to universal service obligations; we are not the universal service provider, more specifically.

ACTING CHAIR—But you seem to be challenging the concept of the universal service provision.

Ms Schubert—We are challenging the concept of the funding model.

Mr McDonnell—We believe that it is inappropriate to take money from Vodafone and transfer that wealth into Telstra's coffers to fund that social policy.

ACTING CHAIR—Why?

Senator MACKAY—You do acknowledge that Telstra is the universal service provider?

Ms Schubert—They are in this instance.

Senator MACKAY—There seems to be a non sequitur.

ACTING CHAIR—You think Telstra is being disadvantaged?

Mr McDonnell—It is being advantaged.

Ms Schubert—That is correct.

Senator MACKAY—But you concede that it is the universal service provider and therefore has a social obligation?

Ms Schubert—Yes, but we are questioning how the funding for the universal service provider is gathered.

ACTING CHAIR—Very interesting. In a country like this economies of scale in telecommunications are a major problem. I do not know whether you were listening to what the last witness said, but he was not saying that people in the country just want basic services; he was saying that if we were out in remote Australia we would want exactly what people in the cities have. That was never an expectation 20 years ago, but it is an increasing expectation in the community now. Are you saying that industry, which makes vast profits out of this entire area, has no obligation at all to provide—I am not saying provide the lot—or put anything towards that?

Mr McDonnell—Just to correct you on the 'vast profits': Vodafone has been in the Australian market for nine years, and Vodafone Australia has yet to return any profit to our major shareholder, which is Vodafone Group.

ACTING CHAIR—Is that because you are reinvesting the money in expanding technology?

Mr McDonnell—It is because of up-front industry fees, levies and taxes, such as the USO and other ones, which go to stopping us reinvesting into the network. As well as that, it is because of the broad base of those fees and taxes, which restrict us.

ACTING CHAIR—Are you saying that you are not reinvesting in the network?

Mr McDonnell—Of course we are. We have to to constantly upgrade and expand the network.

ACTING CHAIR—I do not want you to go through your balance sheets but I am just curious as to your definition of ‘not making a profit’. I would have thought that Vodafone is a very successful company.

Mr McDonnell—In the sense of not actually returning a dollar to our shareholder. That is something that we have yet to do. We would like to do it. We are proposing a shift in the way we approach specific types of regulation that would enable us to be in a position to achieve that.

ACTING CHAIR—You are in a highly capital intensive market. You have been there for only 10 years or so. Obviously, in the establishment phase you are going to be reinvesting and expanding for future profit. You seem to be giving the impression you are not profitable. That is not actually correct in the longer time span.

Ms Schubert—We would like to be profitable in the longer term.

Senator MACKAY—You must have some expectation. The corporate sector is not known for philanthropy.

Ms Schubert—No, and I think that Vodafone Group would have to probably acknowledge that Australia has been the toughest market of any of those we operate in.

ACTING CHAIR—I have a technical question. I am curious about something. We around the table are all victims of mobile phones dropping out at absolutely critical points in the middle of conversations. In politics the whole game can change in three minutes if you have not said something at the correct point. With Globalstar satellite services, which you have had from May 2000, there is 100 per cent geographic coverage. When, in your view, are we likely to have economically priced phones that will be able to use your Globalstar? You will get a new customer if you can guarantee it will not drop out via satellite.

Ms Schubert—The committee should be aware that Vodafone sold its interest in Globalstar to Localstar in December 2002.

ACTING CHAIR—Okay—you do not have that anymore. That is not in our brief here.

Ms Schubert—So we are not best placed to answer that.

Senator MACKAY—You were talking in your opening remarks about regulation applying where there are areas of market failure. As Senator Tierney was saying—and you talk about it in your submission—there are disparate areas of Australia and there is a regional remote context which is described as ‘uneconomic’. So you are saying, ‘Yes, regulation ought to apply in areas of market failure but, hang on a minute, we don’t want to be slugged in respect of remote “uneconomic” areas.’ I would have thought that these areas are an indication of market failure.

Ms Schubert—Can I just clarify a point that goes to the heart of that discussion about USO funding? It is not that those areas of remote Australia should not have services; it is actually

about the funding model to obtain them. We think it is unfair that we are slugged to provide an incumbent with funding to provide the universal service obligation. The underlying question there is the funding model, which is not that industry should fund the incumbent but that the government should fund the incumbent out of consolidated revenue. That is one option. We do not deny that there should be a social objective and a universal service of some description, but what we are questioning is the underlying funding model for that rather than the actual service provision.

Senator MACKAY—In terms of uneconomic areas, you point out that much of that money has gone to Telstra. You do not begrudge them that money; you are saying that your issue is the way the money is derived.

Ms Schubert—Yes. We do not believe that the funding should come from the industry. If Telstra is the universal service provider, that is well and good. Universal service may well be necessary in some uneconomic areas of the country, but it is about us funding Telstra. If it is a government social policy objective to provide services to these areas, then the funding should come from consolidated revenue.

Senator MACKAY—That is never going to happen. Let us be honest. With consolidated revenue there are too many budgetary impositions, too many other asks in relation to health, education, unexpected wars and so on. So let us get out of fairyland and say that consolidated revenue is not going to fund it. Would you say that Telstra ought to be using some of its profits, perhaps, to fund the USO?

Ms Schubert—I am saying that there is probably a range of other options out there. Consolidated revenue is one which seems logical if it is a government social policy outcome. There may be a range of other funding options out there. I think it is open for discussion.

Senator MACKAY—What are they? That is an absolutely apposite comment to make, but what would the options be, other than consolidated revenue?

Mr McDonnell—In the context where there is a transfer of wealth, say, from Vodafone to Telstra so as to provide the universal service obligation, rather than actually transferring that wealth from Vodafone, perhaps Vodafone should retain that wealth and the government should seek innovative tender processes to supply USO services to regional and remote areas. That money would remain with Vodafone and the USO obligation would be met, but, at the same time, Vodafone would be reinvesting in the network, which is what it would prefer to do.

Senator MACKAY—So it would be a form of start-up capital in regional development?

Mr McDonnell—As an example, that is a possibility.

Senator MACKAY—Telstra are not an unprofitable company.

Mr McDonnell—Certainly not, no. We maintain—and this is something that the European Community has recognised—that the benefits that are accrued to the universal service provider are actually greater or outweigh the costs which they incur in providing that universal service obligation. There are benefits from direct revenue from the products and services which they deliver to end users. As well as that, there is the intangible benefit of enhancement of brand in

those areas. We heard the previous speaker, Mr Hodgson, say that if there was not a USO there probably would not be a network in the Northern Territory. That is evidence of the fact that Telstra is dominant and entrenched in that market by virtue of the USO, and that is an enhancement of its brand.

Senator MACKAY—We have heard evidence about the litigious tendency of Telstra in respect of legislation. We have been advised, anecdotally, that Telstra is the biggest consumer of legal services in Australia. I have yet to substantiate whether that is the case or not. What is your experience in that area? Have you had that experience?

Ms Schubert—Our relationships with other industry players are based on commercial outcomes. A point we advocate quite broadly is that intervention by a regulator will always create a second best outcome. The best outcome is created by market forces. Our outcomes are usually commercially based.

ACTING CHAIR (Senator Mackay)—That is not the point I am getting at. To clarify: other players, mainly non-profit ones, have said that when they try to get into a market Telstra takes them to court or they engage lawyers. They have massive resources in terms of access to legal advice. Do you have any experience of them doing that?

Ms Schubert—No, and that is why it gets down to the point of the commercial outcomes. We are in a marketplace and we compete with Telstra and a number of other players, and the outcomes there are commercial outcomes.

ACTING CHAIR—So you have not experienced being thwarted in any way from a litigious angle?

Ms Schubert—Not necessarily, no.

ACTING CHAIR—Okay. You talked about generic competition law. That is an interesting concept. My personal view is that with a lot of these things there is a downside to it, an adhocery, if you like. How would you see that happening or being developed? Would it be through COAG?

Ms Schubert—The development of it I guess should really be up to the powers that be and the decision makers. The outcome that we would be looking for, which you have highlighted, is that market specific regulation should more closely align with general competition law. If there is evidence of anticompetitive behaviour or whatever else there are already mechanisms there through the Trade Practices Act and other relevant pieces of legislation to ping those anticompetitive practices. Sector specific legislation has been tweaked and tweaked and has become quite complex and difficult to work within. There are better ways to deal with those things under general law.

ACTING CHAIR—There is an inexorable nexus with what you are saying and an enhanced role for the ACCC. You cannot have one without the other. Would you agree that there should be an enhanced role for the ACCC?

Mr McDonnell—Aside from that comment, I think what we are saying is that the ACCC certainly has a role in this industry or in any industry in the anticompetitive space. But in terms

of sector specific regulation on the telecommunications industry, it will become less relevant as we move to a convergent world where the areas between broadcasting and telco overlap and so there is the question of where do you actually delineate which is which. We believe the ACCC has sufficient powers under part III of the Trade Practices Act to deal with any instances of anticompetitive behaviour that may arise in the telco space and in the broadcasting space, as with any other industry.

ACTING CHAIR—But if you are going to look at a more comprehensive model with respect to generic competition law, say in the whole ICT area, that is inevitably going to mean that there is more pressure on the ACCC and there will be an inevitable enhancement of power.

Ms Schubert—I think it should be noted that the current sector specific legislation is already policed by the ACCC—

ACTING CHAIR—I know.

Ms Schubert—so it would be a shift. The question of power I think could go either way.

ACTING CHAIR—But, from our perspective as legislators and as representatives of the Australian people, if we were going to go down this path we would certainly contend that the ACCC's role ought to be strengthened.

Mr McDonnell—I do not necessarily see why that correlates, in the sense that our industry is not that different from the broadcasting industry or any other industry.

ACTING CHAIR—We agree that things should be enhanced there as well.

Mr McDonnell—We are saying that, as with any industry that operates out of sector specific regulation, we should fall into that, and that does not necessarily correlate with an increased role or increased powers for the ACCC by virtue of that. In reality, the general competition law as it exists at the moment is sufficiently strong to deal with durable market failure and anticompetitive behaviour in the telco industry or in any other industry that exists. That is our belief.

ACTING CHAIR—I understand that. That has been very interesting. Thank you.

Senator MOORE—Your submission is clear, but I have one question. Is it fair to say that it is not regulation as such to which you object, even though you have concerns about regulation; it is the constant tweaking and changing of the regulation and the layering of the regulation to which you object?

Ms Schubert—I think our objection is twofold. Firstly, it is where regulation has been inappropriately applied, say, to competitive areas—GSM termination charges are one competitive area I can think of. We advocate commercial outcomes. Then it is the application of regulation generally. The tweaking is problematic and that is certainly something that we do not support on a general level. Also, we think that inappropriately directed regulation, whether that be tweaking, an amendment or an entirely new piece of regulation or legislation, is not necessarily in the best interests of the industry as a whole.

Senator MOORE—As Vodafone is such a large international company in the international scene, is Australia considered to be a more difficult place in which to operate?

Ms Schubert—I think this aspect was highlighted by our colleagues at a previous House of Representatives committee inquiry. The view is, ‘Don’t get us wrong, Australia is not such a bad place to have a business but there is always additional work that can be done to make it a more proactive environment for us to operate in.’ There are a lot of examples of less regulation in New Zealand, a marketplace which is operating within market parameters without any intervention. There are other cases internationally as well. There is always room for improvement; that is what we think.

Senator MOORE—In terms of how easy or profitable it is to operate, where is Australia on the scale in the international market where Vodafone has its business?

Ms Schubert—Probably in the upper end.

Mr McDonnell—I would say the Australian regulatory environment is certainly one of the better ones in which the Vodafone business operates but, as Georgia-Kate said, things can still be done. The example of New Zealand is quite a good one. Regulatory instruments which exist in New Zealand are more market based and more reactive to market conditions than in the Australian context. In Australia they are more restrictive and place greater burdens and obligations upon industry.

Senator ALLISON—It has fully privatised its telecommunications sector.

Senator MACKAY—It is also an entirely different culture to Australia.

Ms Schubert—I think Australia is an entirely different country to every other country you would like to compare it with as well.

Senator MACKAY—Precisely.

ACTING CHAIR (Senator Tierney)—Thank you very much for appearing. That concludes today’s public hearing in relation to the committee’s inquiry into the Australian telecommunications network. I thank witnesses for their presentations.

Committee adjourned at 11.37 a.m.