

9 March 2012

By email: ec.sen@aph.gov.au

Committee Secretary
Senate Standing Committees on
Environment and Communications
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Sir/Madam

**INQUIRY INTO TELECOMMUNICATIONS AMENDMENT (MOBILE PHONE TOWERS) BILL
2011**

Thank you for the opportunity to make a submission into the Bill. The Bill's implications are significant to the telecommunications industry and the efficient deployment of telecommunications infrastructure in Australia. For ease of review, we reiterate many of the comments we made in relation to the *Telecommunications Amendment (Enhancing Community Consultation) Bill*.

Executive Summary

The telecommunications industry, the industry regulators and the Australian Local Government Association (**ALGA**) support the introduction of the new Mobile Base Station Deployment Industry Code (the **Code**). The Code provides for material improvements in the community consultation process and should achieve the correct balance for all stakeholders.

The Bill is therefore unnecessary and, if implemented, would substantially interfere with the proper improvement and maintenance of telecommunications networks in Australia. These networks are essential to the day to day lives of 22.8 million Australians. Australians expect, quite reasonably, networks to work and that ambition would be compromised if the Bill were to be enacted.

It's also important to look at the underlying driver for the legislation. Aside from the concerns around community consultation, which should in large part be addressed by the Code, there is also an expressed concern about the "absence of evidence" that mobile phone facilities "do not cause harm" to the general public. Here are the facts:

- The World Health Organisation (**WHO**) has concluded, based on 25,000 articles published over the past 30 years, that the evidence does not confirm the existence of any health consequences from exposure to low level electromagnetic fields. WHO further notes that "*despite the feeling of some people that more research needs to be done, scientific knowledge in this area is now more extensive than for most chemicals*"¹.
- An ARPANSA audit of base stations across Australia found some sites, even those expected to have the highest levels, emit less than 0.001% of the safety standard, or 100,000 times below the standard.
- ARPANSA have confirmed that 98% of RF emissions in the environment were the result of TV, AM and FM radio. The contribution from mobile phone base stations was 2%.

The WHO recommended that an education and communication strategy should be considered to enhance public confidence and acceptability on this issue. We would ask the Committee to consider this as part of its Inquiry into the Bill.



Crown Castle Background

Crown Castle is the largest independent tower company in Australia – owning and operating approximately 1,620 communications towers and rooftops in Australia. These sites are used by telecommunications carriers, emergency service providers and other communication service providers on a shared basis. Crown Castle also manages and maintains over 2,500 VHA mobile telecommunications sites throughout Australia.

As an independent shared infrastructure supplier, Crown Castle facilitates the maximum use of towers on a competitively neutral basis as between individual service providers. Our aim is to make infrastructure available to co-users for the environmentally and economically efficient deployment of communication services throughout Australia.

Crown Castle Submission

1. Important Background

- (a) New “towers” cannot be constructed under the “low impact” provisions incorporated in Schedule 3 of the *Telecommunications Act*. New towers require local planning approval. The current regime already makes it extremely difficult and expensive to build new towers in Australia, particularly in metro areas. In light of this, new towers are only pursued when there is a clear and pressing need to improve wireless service coverage.
- (b) It can take well over a year to construct a new tower utilising the local government development approval process. If low impact is effectively eliminated from the regulatory landscape, any new installation (whether an upgrade to an existing installation, a new colocation or a tower extension) will be forced to follow the same process and suffer the same delays.
- (c) The Committee would be aware that there has been a recent groundswell of community concern regarding the quality of mobile phone networks in Australia. This has been well publicised and there is no need to repeat the details here. Needless to say, hundreds of thousands of Australians have been demanding better network performance and coverage from their chosen carrier. As wireless service usage increases and mobile phone and data technology evolves, effective coverage from cell sites will shrink and, therefore, more sites will be required. If these sites cannot be deployed, the networks will not provide a quality of service the community demands and expects.
- (d) The majority of emergency calls (“000” etc) are now made through mobile networks. The networks need to be reliable at any time of day or night on an ubiquitous basis. The ability to communicate via SMS and data is also now an important part of how emergency services agencies operate in Australia. The views of fire, police and ambulance service agencies should therefore be considered as part of this Inquiry.
- (e) There are now more mobile broadband subscribers than fixed broadband subscribers in Australia. The community expects broadband to work and that requires an efficient deployment of new sites, new technologies and new frequency bands to ensure mobile networks perform effectively over the long term. The rise of mobile broadband has led to new applications used by millions of Australians every day for social, educational, business and emergency communications that obviously rely on reliable network coverage. This is only the beginning of a new wave of mobile products and services



that will be used by millions of Australians every day. This is part of a global trend that should be considered by the Committee.

2. A precautionary approach should be taken to regulatory change

- (a) The existing regulatory regime associated with the deployment of telecommunications network infrastructure has been carefully developed over the last two decades. The latest Code (referred to above) reflects this approach. Any change to the “balance” achieved should be carefully considered with industry input and independent expert technical advice as required.
- (b) In the period 1 July 2010 to 30 June 2011, there were 4,432 “Low Impact” installations undertaken by Optus, Telstra and VHA throughout Australia. The MCF estimates that less than 1 per cent of these installations have led to complaints under section 7 of the ACIF Code.
- (c) Removing the practical application of “low impact” from the regulatory regime will mean:
 - i) any antenna installations (whether new or an upgrade) will need to go through a DA process. Given the thousands of installations required to maintain adequate telecommunications services, networks will simply degrade and fail over time.
 - ii) any tower extensions will require the same planning approval process as brand new towers. This impacts on the long established regulatory preference for colocation rather than “over build” – perhaps contradicting the underlying purpose of the legislation.
 - iii) NBN Co’s wireless network is a “line of sight” network and tower extensions will be required to deploy that network. If all tower extensions require the same planning approval process, there will be an unnecessary and significant delay in the deployment of NBN Co’s wireless network.
- (d) Given the importance of the telecommunications industry to sustainable GDP growth in Australia, any additional regulatory burden should be referred to the Productivity Commission prior to implementation.

3. Contrary to US Regulatory Approach

The *Middle Class Tax Relief and Job Creation Act 2012* was passed by the US Congress in February 2012. As part of the “job creation” aspect of the legislation, tower upgrades and colocation installations that do not “substantially change the physical dimensions” of the tower will be managed through a deemed local government approval process. The new law is designed to facilitate the deployment of 4G wireless networks across the United States and, as a result, generate GDP and jobs across the United States.

The US regulatory approach, adopted after a long period of careful review and consideration, clearly contradicts the design and potential impact of the *Telecommunications Amendment (Mobile Phone Towers) Bill 2011*.

4. Impact on Industry

- (a) The Bill creates considerable uncertainty for the wireless telecommunications industry at a time when critical investment decisions are being made.
- (b) The proposed Bill impacts on the proposed timing of upcoming spectrum auctions and renewal processes and the associated value of that spectrum. An uncertain regulatory

environment increases the cost of equity associated with bidding for spectrum and, therefore, reduces the bid price and the ultimate returns to taxpayers on that valuable community asset.

- (c) Giving notification to any owner or occupier within 500m of a low impact activity creates an unrealistic and unnecessary burden on the industry. AMTA has estimated the associated cost to the industry is in the order of \$2 billion per annum.

5. Impact on Local Government

- (a) If the use of "low impact" for network deployment is removed, thousands of installations will require local government approval and this would drive the need for more training and resourcing in local government agencies. The cost to the community would increase significantly without a measureable benefit.
- (b) Importantly, the Australian Local Government Association supports the introduction of the new Code and suggests that the improved consultation process be considered prior to any further regulatory change.

6. Impact on Community

- (a) As mentioned above, there is significant community concern about the reliability and availability of mobile networks. The carriers are making huge investments to improve network coverage and reliability to address this issue. If they are unable to efficiently upgrade networks, we may be left with sub-standard network performance in Australia.
- (b) Any adverse impact on NBN's wireless deployment in regional Australia will further exacerbate the "broadband divide" in Australia and impede the deployment of this nation building infrastructure and the associated commercial, social, educational, medical and economic benefits it will bring. The broadband divide is an issue various Governments have been trying to solve over the last decade.

7. Improved Consultation is already part of the new Deployment Code

- (a) Communications Alliance Ltd has submitted a new *Mobile Phone Base Station Deployment Industry Code (C564:2011)* for registration with AMTA. This is designed to allow community and councils to have greater participation in decisions made by carriers when deploying mobile phone base stations. The new Code will commence with effect on 1 July 2012.
- (b) Communications Alliance has described the purpose of the revised 2011 Code is to:
 - i) *require Carriers to develop and evolve the consultation plan for new proposals;*
 - ii) *improve transparency and visibility of the consultation process with local council and communities;*
 - iii) *increase the existing time allowed for local council and the community to comment on proposals for new infrastructure;*
 - iv) *provide consistency, guidelines and examples of the type of letters, plans, signs and reports which Carriers will use when notifying and consulting with councils and the community;*



- v) *provide and update the RF EMR Health and Safety information, reports and signage in keeping with the current and relevant standards.*
- (c) Crown Castle believes the development and implementation of a new Code is a more efficient and considered method of addressing concerns relating to the deployment of mobile phone infrastructure in Australia.

Once again, thank you for the opportunity to make this submission.

If you have any questions in relation to Crown Castle's submission, please do not hesitate to contact me on the details set out below.

Regards

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Crown Castle Australia
Director, Corporate Development