

Additional Comments submitted by Senator Scott Ludlam for the Australian Greens

The Australian Greens welcome the opportunity to begin the process of reversing the worst consequences of the privatisation of Telstra. The main aim of the bill is to address the horizontal and vertical integration of Telstra, which has allowed the incumbent to unfairly exercise market power, ultimately to the detriment of the public interest. While the Telstra board will decide which form of separation the company will undergo, the most likely outcome will be a return to public hands of key network infrastructure which should never have been sold in the first place.

The amendments the Greens will propose to this bill are intended to strengthen the rights of three distinct interest groups, namely:

- The end-users – 22 million Australians who will use the services carried over telecommunications networks, but most particularly users in rural and regional areas.
- The greatest diversity of market participants – to ensure that the playing field is level
- The workforce of Telstra, protecting their interests during the transition period.

Principles with which the Greens have approached this bill:

- The importance of telecommunications as an essential service, and the responsibility of providers to uphold universal service obligations;
- The potential for low-cost, fast broadband to improve economic prosperity, the delivery of education and medical services, strengthen social and professional networks and increase Australia's integration and participation in the international community ;
- The need to bridge the digital divides in Australia based on wealth and geography;;
- The importance of diversity in telecommunications markets, and the need to restrain large players from abuse of market power;

- Public ownership and control of natural monopoly components of telecommunications networks.

Greens position on the bill:

The Greens seek Government agreement on the following amendments:

- **Protection of Telstra workforce**

The bill is currently silent on the impacts of functional or structural separation on the Telstra workforce. The Greens believe it is essential to protect the rights and entitlements of Telstra's workforce to ensure no-one is worse off after the adjustments to Telstra's structure.

- **Protection of the rights of end-users**

The debate over the future of Telstra (and the market structure of the proposed NBN) has tended to overlook the rights of the people who will ultimately use the telecommunications services - the end-users. For this reason the Greens will propose amendments which broaden the definition of 'Standard Telephone Service' to cover the much larger array of telecommunications services which now exist, and we will move to make compensation payments liable under the Customer Service Guarantee (CSG) automatic rather than relying on customers to apply.

In particular these amendments will strengthen services in regional areas where services have traditionally been patchy or non-existent.

- **Access determinations to prevail over access agreements, by application**

As suggested by the Competitive Carriers Coalition and others, access seekers with prior commercial agreements should be able to fall back on later access determinations made by the ACCC, creating in effect a 'no disadvantage test' in access agreements.

- **Independent review of amendments to the TPA after 3 years** to examine whether the access regime is functioning appropriately. This bill grants very wide discretion to the ACCC, to the degree that rights to procedural fairness and access to merits review by the Australian Competition Tribunal have been removed. The Greens acknowledge the reasoning behind these amendments but remain concerned that in solving one problem (removing the ability of the incumbent to mire access determinations in endless procedural delays) we will

have removed two avenues of redress which the industry may later regret. A formal review will allow the Government to assess whether the new access regime is functioning well.

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