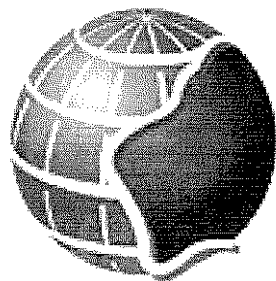


**Submission to
Senate Environment, Communications,
Information Technology and the Arts
Legislation Committee of Inquiry**

**Telecommunications Legislation
Amendment (Regular Reviews and
Other Measures) Bill 2005**

April 2005



Government of
**Western
Australia**

INQUIRY INTO THE PROVISIONS OF THE TELECOMMUNICATIONS LEGISLATION AMENDMENT (REGULAR REVIEWS AND OTHER MEASURES) BILL 2005

Introduction

The 2002 Regional Telecommunications (Estens) Inquiry made a number of recommendations in regard to providing a greater level of certainty of future ongoing benefits to regional, rural and remote communities. It noted that a growing priority was for equitable access to higher bandwidth services.

The Inquiry stated that the objective was “that there should be a ‘future-proofing’ mechanism put in place to enable the sharing of telecommunications benefits across Australia into the future”.¹

Accordingly the following recommendations were made:

“RECOMMENDATION 9.1

The Government should put in place a process to regularly review telecommunications services in regional, rural and remote Australia, and to assess whether important new service advancements are being delivered equitably in those areas.

The review process should be linked to a strategic plan for regional telecommunications, and underpinned by ongoing arrangements that provide a high degree of certainty that Government funds will be made available to support service improvements in regional, rural and remote Australia, where they will not be delivered commercially within a reasonable timeframe.

RECOMMENDATION 9.2

Establishing a structure for future reviews of regional, rural and remote telecommunications services should:

- provide certainty for regional, rural and remote communities;
- ensure that reviews are independent from executive government;
- allow for flexible and appropriate policy responses to meet the range of needs in regional, rural and remote Australia; and
- promote competition and commercial service delivery as the most effective and sustainable service outcome.

¹ Regional Telecommunications Inquiry report , p. 240

RECOMMENDATION 9.3

The scope of regular reviews of regional, rural and remote telecommunications services should be flexible, but there should be a core focus on assessing whether important new telecommunications services are available equitably across Australia.

RECOMMENDATION 9.4

Future governments should be legally obliged to respond publicly to the recommendations of future reviews, and to justify responses that are not in accord with review recommendations.

RECOMMENDATION 9.5

The Government should provide funding for future service improvements in regional, rural and remote Australia, rather than imposing financial obligations on industry.

RECOMMENDATION 9.6

The Government should ensure that regular reviews of regional telecommunications services are supported by organisational arrangements that provide a strong focus on monitoring and assessing regional, rural and remote service levels. The Australian Communications Authority would be an appropriate body to undertake this function.”

On 25 June 2003, the Commonwealth Government released its response to Estens, saying it accepted all thirty-nine recommendations. In the Fact Sheet, *'Future proofing' regional telecommunications*, accompanying the Government's media releases on 25 June 2003, the following statements were made: "The need to ensure that people in regional areas continue to share equitably in the benefits of advances in technology (future proofing) was a specific term of reference of the RTI. The Government has accepted all 39 recommendations made by the Inquiry, including the recommendations relating to future proofing of regional telecommunications services, to ensure that improvements to services achieved in recent years are built on into the future."

The Commonwealth Government stated that it would develop a strategic plan for regional communications in consultation with key stakeholders, in accordance with Recommendation 9.1. This is still under development.

Telecommunications Amendment Legislation

1. Reviews

A new 'Part 9B – Independent reviews of regional telecommunications' is being considered for insertion into the *Telecommunications (Consumer Protection and Service Standards) Act 1999*. This covers the content of the review, the timing of the review and the conduct of the review. There is no linkage, however, to any

telecommunications strategic plan as was recommended by the Estens Inquiry. It would seem that, the proposed section 158P (5) would be an appropriate place to incorporate this requirement.

Estens Recommendation 9.2, which the Government accepted, calls for the review to be independent from executive government. The proposed legislation (section 158T (3)) only requires that a majority of the members of this Regional Telecommunications Independent Review Committee (RTIRC) not be officers or employees of the Commonwealth or of Telstra. This does not make the committee independent, nor does incorporating the word "independent" in its title.

2. Licence Conditions

The Commonwealth Government made two commitments to impose licence conditions upon Telstra, in its response to the Estens Inquiry:

- o In response to Recommendation 4.1 on Internet services, the Government stated it would impose a licence condition on Telstra to provide a minimum dial-up Internet speed for all Australians of 19.2 kbps or equivalent throughput over its fixed line network. The recommendation also included "As part of the licence condition Telstra should be required to report on its compliance with the requirement, and more generally on the data speed performance of its regional network, which should be maintained at least at current levels."
- o The Government will impose a licence condition on Telstra to maintain a local presence in regional, rural and remote Australia, including through developing a local presence plan, and reporting publicly on its achievements against the plan. (Recommendation 8.1)

The proposed section 66 of the *Telecommunications Act 1997* provides for a licence condition for a local presence to be maintained, but is silent on the issue of internet speeds, including reporting on data speed performance. This issue is not addressed in the legislation before Parliament.

Conclusion

The Western Australian Government welcomes the provisions to regularly review the adequacy of telecommunications services in regional areas. It would like to see full effect being given to the other commitments made by the Commonwealth Government in response to the findings of the Estens Inquiry, including a truly independent committee.

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