

**Competitive
Carriers'
Coalition Inc**

**Submission to the Senate Environment, Communications and
the Arts Legislative Committee**

**Inquiry into the provisions of the Telecommunications
Legislation Amendment (Regular Reviews and Other
Measures) Bill 2005**

April 2005

Introduction

The CCC welcomes the opportunity to contribute to the Senate ECITA committee's inquiry into Telecommunications Legislation Amendment (Regular Reviews and Other Measures) Bill 2005. The CCC is an association representing a group of non-dominant telecommunications carriers in Australia.

The CCC stands apart from other representative groups because it speaks exclusively for carriers and carriage service providers that have invested in building their own competitive infrastructure, rather than simply trying to resell Telstra products. Its members have invested over \$4 billion in competitive infrastructure and have been at the forefront of driving competition in markets as diverse as 3G mobile services, corporate data and voice services, wholesale transmission and residential Internet and voice products.

Competition and the Regular Review Proposal

The CCC supports the proposal in the Bill to establish regular independent reviews of regional telecommunications. However, the CCC submits that the Bill should explicitly include the overall competitive environment as one of the elements that should be considered in these reviews.

The CCC has consistently argued that increasing the level of competition must be the first step in attempts to raise the standard of services to rural and regional centres.

The most recent of the inquiries into the state of rural and regional communications, the Page Research Centre's report,¹ firmly concluded that competition should be the first priority for future regional and rural telecommunications policy.

It said:

While the Page Research Centre acknowledges that there will always be a role for government in telecommunications service delivery, it believes competition is the most efficient means to creating a progressive telecommunications industry. The Page research Centre believes the non-metropolitan Australia suffers from a lack of true competition in the telecommunications market.

The CCC believes the problem of ineffective or weak competition is not confined to non-metropolitan areas but is one that affects markets across the whole of Australia. In this, the CCC's arguments are consistent with the views expressed by the ACCC.²

The core problem that the ACCC has identified with the competitive regime is the vertical and horizontal integration of Telstra, which gives it market power, the ability to

¹ Future Proofing Telecommunications in Metropolitan Australia, Page Research Centre, March 2005

² ACCC Telecommunications Reports 2002-03

leverage that power across markets, and the incentive to do so.³ The Productivity Commission and the National Competition Council have expressed similar views.

Recently, the Communications Minister has indicated that it is her belief that the regulatory arrangements to encourage and support competition in communications need to be reformed, and has suggested “a form of operational separation” of Telstra as the basis of these reforms as a means of addressing the structural integration problem.⁴

The Page Research Centre also recommended that a combination of operational separation and models of developing new, separately owned next generation access networks be investigated to overcome the competition problems arising from Telstra integration.

It is clear, therefore, that a review of telecommunications in regional areas that did not address the general competitive environment would be incomplete.

Review Timing

The CCC notes that the Bill proposes reviews are conducted after a maximum period of five years. The CCC submits that in practice this is likely to mean that it is unlikely that reviews will be conducted in shorter than five year periods.

Experience suggests that this is too long.

In December 2002, the Government implemented a set of reforms to introduce the accounting separation regime to provide greater transparency into Telstra accounts and other reforms to the access undertakings and dispute arbitration processes.

By the beginning of 2005 it was publicly acknowledged by the ACCC that accounting separation had not addressed the core competition problem and that the undertakings process “has, contrary to the intent of Parliament, been used to delay and frustrate access to particular services” and was “cumbersome, vexatious and inefficient”.⁵

The CCC submits that the maximum period between reviews should be four years. This is sufficient time for problems in the changes likely to be enacted this year to emerge. Once problems have emerged, it is imperative that they are addressed as quickly as possible for the benefit of competitors, national economic welfare and consumers, particular those in non-metropolitan areas where services are most limited and expensive.

³ ACCC Emerging Markets Report 2003 Report to the Minister

⁴ Senator Helen Coonan, Minister for Communications, IT and the Arts, speech to ATUG March 9 2005.

⁵ ACCC Discussion Paper Telstra’s Undertakings for the Unconditioned Local Loop January 2005.

Conclusion

The CCC submits that it is now generally acknowledged that the failure of competition in telecommunications to develop as was intended when full competition was introduced in 1997 is a primary cause of the problem of inadequate regional telecommunications services. Also, a package of regulatory measures aimed at addressing the structural causes of this competitive failure is likely to be presented by the Government and passed by the Parliament this year.

Inadequacies in previous regulatory changes aimed at improving competitive outcomes have become apparent to competitors very soon after they changes were enacted, and have been acknowledged by the regulator within two-three years.

The CCC submits therefore that the Bill be amended to:

- explicitly require that the general competitive environment be a subject considered in the regular reviews
- reduce the maximum period between reviews from five to four years.