

Senate Inquiry

into the performance of the Australian telecommunications regulatory regime

April 2005

Background

TEDICORE (Telecommunications and Disability Consumer Representation) welcomes the opportunity to respond to the call for public submissions to the Senate Inquiry into the performance of the Australian telecommunications regulatory regime. Due to the short timeframe, this submission can only outline some of the main issues of concern to TEDICORE.

TEDICORE is the voice of Australia's peak organisations of people with disabilities on telecommunications and is supported by the Commonwealth through the "Grants to Fund Telecommunications Consumer Representations" program of the Department of Communications, Information Technology and the Arts. TEDICORE is administered by Blind Citizens Australia but is a cross-disability project. It represents the interests of people with a disability in relation to telecommunications issues and promotes equity and accessibility. A Project Advisory Body with members from peak disability bodies such as Australian Association of the Deaf, Deafness Forum of Australia, Physical Disability Council of Australia, Women with Disabilities Australia, Blind Citizens Australia as well as Dr Christopher Newell AM ensure that there is broad representation.

People with disabilities comprise over 19% of the population according to the Australian Bureau of Statistics (2003). As our population ages, the number of people with functional limitations will increase.

People with disabilities live in all areas of Australia, conduct their own businesses, work in the government, commercial and community sector and span a broad range of occupations and interests. People with disabilities are students, employees and employers. In other words, people with disabilities are an integral part of Australian society and contribute significantly to Australia's economy and are keen to participate in the digital economy.

Regulatory measures to ensure that all Australians obtain access to adequate telecommunications services

Since the deregulation of the telecommunications market in the 1990's, the Federal Government has adopted the policy of a light regulatory approach to the industry. There are a number of areas where this does not benefit people with a disability. This submission will outline TEDICORE's key concerns under the various Terms of Reference of the Inquiry.

(d) *whether consumer protection safeguards in the current regime provide effective and comprehensive protection for users of services*

The Australian Communications Authority commissioned a consumer-based project in 2004 to find ways to improve the models of participation and contribution by consumers recognising the importance of a strong consumer presence in an effective regulatory framework. The report on Consumer Driven Communications presented 71 recommendations relating to such areas as legislation, self-regulation and consumer protection. The main themes identified by the Project Group were:

- a. Consumers seek workable regulation and effective enforcement in the telecommunications industry to ensure that consumers get the products and services they need in an environment with adequate safeguards;
- b. The concepts of consumer protection and representation need to be elevated to the direct responsibilities of the legislator and regulator (with less emphasis on the self-regulatory processes);
- c. The ACA continue to play a greater role in developing consumer protection mechanisms (for example by giving directions and setting deadlines);
- d. Regulatory bodies must offer consumer representatives avenues of early input into regulatory and code development and revision processes;
- e. Consumer representation on boards of regulatory authorities to be undertaken only by members having the confidence and support of consumers/end users generally;
- f. Appropriate funding of the consumer sector is essential in achieving the required level of input;
- g. A comprehensive training and mentoring program is needed to broaden and strengthen the pool of consumer advocates;
- h. The consumer sector can strengthen its voice and the effectiveness of its advocacy by improving the co-ordination of advocacy (wherever possible);
- i. Consumers believe that the telecommunications industry will be enhanced by broadening and strengthening effective consumer participation in communications policy development;
- j. Feedback policies need to be stated, planned and included in the methodology of any participative and consultative processes by legislative, regulatory and industry bodies;
- k. Evidence-based research capacity within the consumer sector is urgently needed; and
- l. Research empowers effective consumer participation in communications policy development. Consumers, as users of telecommunications, can provide valuable input into research by being involved rather than being passive subjects or token

representatives. Involving consumers as partners in the development of research goals, questions, strategies, methodologies and information dissemination is recognised as providing better quality outcomes.

TEDICORE urges the Inquiry Committee to consider these themes and the relevant recommendations in its deliberations.

(f) the impact that the potential privatisation of Telstra would have on the effectiveness of the current regulatory regime

Telstra provides a range of services to people with disabilities and was the first major Australian corporation to develop a Disability Action Plan. It provides services to people with disabilities required by its role as the Universal Service Provider. However, Telstra also offers some services to people with disabilities as a good corporate citizen. It is these services (listed below) in particular that consumers are concerned will be eroded if Telstra is totally privatised.

Directory Assistance Helpline

Specially trained operators provide free detailed directory assistance to people with disability who meet eligibility criteria that they cannot use a standard telephone directory

Disability Enquiry Hotline

Provides information on the Disability Equipment Program

In addition, Telstra resources which positively impact on consumers with disability include:

Centre for Accessibility

Within the Human Factors sectors of Telstra's Research Laboratories. It provides an internal service ensuring that Telstra's online services such as its web site are accessible and also does assessments and provides advice on accessibility to other divisions of Telstra.

Disability Services Unit

This unit is central to the development of policy and liaison with consumers on disability issues. It implements the Disability Action Plan, provides disability awareness-raising within the corporation and promotes its disability services in the community.

The Disability Services Unit is a valuable cross-corporation resource on disability and this should be expanded with at least another staff member to ensure that all its tasks are achieved in a timely manner.

After TEDICORE representations to Telstra management, there have been oral reassurances from Telstra that current services to people with disabilities will be maintained beyond the legislative and regulatory safety net. However, there is still considerable concern amongst TEDICORE member organisations and at the grassroots level that, in future, based on the commercial pressures of a fully privatised company, current service levels could deteriorate.

It is vital that consumer safeguards be instigated and legislated with strong compliance measures to ensure that people with disability still are able to access these services.

(g) whether the Universal Service Obligation (USO) is effectively ensuring that all Australians have access to reasonable telecommunications services and, in particular, whether the USO needs to be amended in order to ensure that all Australians receive access to adequate telecommunications services reflective of changes in technology requirements

The Universal Service Obligations should be amended to ensure that all Australians regardless of age, functional ability or geography have access to adequate telecommunications now and into the future. In fact, the term “universal access” may better express this concept.

The issue of universal access to services has been argued for many years as is witnessed by the following quote:

"... the development of a comprehensive and dynamic conception of universal service that ensures communications needs are defined now and into the future to deliver equitable access to new communications technologies. Universal service is seen to require five universal elements: geographical availability; accessibility; affordability; technological standards; and participation in society. Without a change in the road rules by the government, there will continue to be many consumers of the existing telecommunications network and many more consumers in the future who may have only limited access to new technologies. An "information superhighway" for all people is seen to require consumer-defined information and access for a diversity of residential consumers' needs and aspirations. " (Goggin, G. & Newell, C. 1994)

Affordability

Affordability of ICT including fixed, mobile, broadband and IP-based services is vital if there is to be widespread uptake by people with disabilities. This relates both to the connection and equipment costs. However, for those people with disabilities who do not have adequate funds, there will be an increasing divide between the digital haves and the have-nots.

It is instructive to note that in Korea which is leading the world in broadband infrastructure development and consumer uptake, there are substantial discounts for people with disabilities for fixed and mobile phone services as well as broadband services. For example, discounts of up to 50% are provided for the cost of high speed Internet services to people with disabilities. The carriage service providers subsidise these discounts from their profits. The discount program is administered by a government agency under the Ministry of Information Technology. It is also useful to note that Korea has a revised Digital Divide Act (2003) to assist in ensuring that the majority of the population has access to broadband services.

In less developed regions, there is also a trend in this direction. For example, the South Asia Telecommunications Regulators Commission (SATRC) adopted a Resolution in September 2004 that states that regulators in SATRC member countries should develop a regulatory framework which encourages telecom/IT operators in their countries to facilitate provision and availability of telecommunications facilities to people with disabilities and older people at favorable rates and to introduce appropriate equipment for people with disabilities and older people.

Disability Equipment Program

As part of its USO role, Telstra is required to provide a Disability Equipment Program. The Program provides specialised phone equipment at the same cost as a standard phone handset for people with a disability who are Telstra local call customers after they have fulfilled eligibility criteria qualifying them for the Program.

As technologies change, there should be the facility for people with a disability to have access to equipment for those technologies on an equitable basis.

People with a disability have limited freedom of choice in choosing another provider based on price and service. Optus has a limited equipment program for Optus customers with a disability who use particular Optus services. The smaller providers have no equipment program. Telstra has a wholesale arrangement with other service providers for disability equipment but after more than one year of operation, there are still considerable consumer concerns and many people with a disability still use Telstra if they need equipment.

In a number of European countries, especially in the Nordic countries, relevant equipment is provided through a range of means. This includes videophones for Deaf people for sign language communication and people with hearing impairments for lip-reading. For example, in Sweden, the government provides videophones to Deaf people using sign language. This is the type of equipment needed in Australia.

It is worthwhile to note that Recommendation 14 of the 2004 Report from the Senate Inquiry into the Australian Telecommunications Network stated that the Government should fund the establishment of an independent disabilities equipment program using funding from the Universal Service Levy.

TEDICORE's Position Paper recommends that an independent and consumer-managed Telecommunications Program be established.¹

(i) whether the current regulatory regime promotes the emergence of innovative technologies

Innovative technologies continue to develop exponentially. One relevant regulatory aspect for consumers is the digital data service provisions as part of the Universal Service Regime in the Telecommunications (Consumer Protection and Service Standards) Act 1999. It would be far more effective than specifying specific data speeds (which quickly become dated) if the Universal Service Regime with regard to data service provisions was tied to particular regulation so that legislation would not have to be amended each time there was a further technological development. This could be done through legislation triggering regular regulatory reviews.

The European Commission takes this type of approach through its Universal Service Directive (Directive 2002/22/EC). The Directive specifies that the data rates offered have to be comparable with those used by the majority of subscribers in the prevailing technology. This should mean that this area of universal service keeps pace with technological change. The

¹The Position Paper for the Telecommunications Disability Program is at: <http://www.bca.org.au/tedcore/DEP2002.htm>

scope of the Universal Service Directive is reviewed every three years to reflect changes in service usage and the type of services offered due to technological developments.

Furthermore, the recent release of ACA's futures project report, Vision 20/20 indicates the need to consider user requirements in relation to an effective regulatory regime. In fact, it discusses a closer dialogue between government, industry and end-users so that innovative technologies may work well for all stakeholders. The Vision 20/20 Report also recognises that universal design is a useful tool when developing and introducing new technological applications in order to serve the needs of the broader community.

TEDICORE believes that there is a need for regular benchmarking by the regulator, based on established research, to ensure that consumers with a disability will have equity to and access to telecommunications regardless of new technologies being introduced.

(k) whether there are any other changes that could be made to the current regulatory regime in order to better promote competition, encourage investment or protect consumers.

TEDICORE strongly supports an amendment of section 407 of the Telecommunications Act 1997 to enable the requirements of section 380 disability standards as well as section 376 technical standards to be specified in the Telecommunications Labelling Notice. TEDICORE has raised this issue in its response to the Australian Communications Authority's Review of Technical Regulations in 2002 and this has been a matter of consideration by the ACA in its Draft Report of the Review.

Since that time, there have been considerable international developments with regard to accessible ICT equipment standards. For example, in December 2003, a Japanese standard was adopted (JIS X8341-1) entitled Guidelines for older persons and persons with disabilities – Information and communications equipment, software and services. Government procurement processes will be required to check for conformity with this new national accessibility standard. This means that, similar to the U.S. Section 508 Guidelines, suppliers to the Japanese Government will be more successful if their products meet the accessibility guidelines. This will likely increase markedly the number of accessible products in the marketplace.

Thus, Australia will not be restricting imports by having a compliance regime in place for the current AS/ACIF S040:2001 Requirements for Customer Equipment for use with the Standard Telephone Service – Features for special needs of persons with disabilities. This disability standard specifies requirements for only two features: hearing aid coupling and tactile indicators on keypads. In fact, it is important to have such a compliance regime in place to ensure that Australia does not become a “dumping ground” for inferior products which multinational manufacturers may not be able to supply to other developed countries.

TEDICORE looks forward to further discussions about the above issues with members of the

Inquiry Committee.

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