



15 September 2009

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ELECTRONIC LODGEMENT

Telecommunications Regulatory Reform – press release by the Department of Broadband, Communications and the Digital Economy

Dear Sir or Madam

I attach a copy of a media release entitled “Historic Reforms to Telecommunications Regulation” released today by Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy.

Telstra is currently examining the detail of the reforms and will provide an update to the market as appropriate.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Carmel Mulhern'.

Carmel Mulhern
Company Secretary



SENATOR THE HON STEPHEN CONROY

MINISTER FOR BROADBAND, COMMUNICATIONS AND THE DIGITAL ECONOMY
DEPUTY LEADER OF THE GOVERNMENT IN THE SENATE

MEDIA RELEASE

Government announces historic reforms to telecommunications regulation

The Minister for Broadband, Communications and the Digital Economy, Senator Stephen Conroy today announced fundamental reforms to existing telecommunications regulations in the interests of Australian consumers and businesses.

These reforms will drive future growth, productivity and innovation across all sectors of the economy by:

- addressing Telstra's high level of integration to promote greater competition and consumer benefits;
- streamlining and simplifying the competition regime to provide more certain and quicker outcomes for telecommunications companies;
- strengthening consumer safeguards to ensure services standards are maintained at a high level; and
- removing redundant and inefficient regulatory red-tape.

"For years industry has been calling for fundamental and historic micro-economic reform in telecommunications. Today we are delivering this outcome in Australia's long term national interest," Senator Conroy said.

Telstra is one of the most highly integrated telecommunications companies in the world across the fixed-line copper, cable and mobile platforms.

"The reforms address the structure of the telecommunications market and provide Telstra with the flexibility to choose its future path."

"It is the Government's clear desire for Telstra to structurally separate, on a voluntary and cooperative basis."

"The Government believes it is possible to achieve a win-win outcome in the interests of Telstra, its shareholders and, more broadly, all Australians," Senator Conroy said.

The reforms will also promote competition and strengthen consumer safeguards.

"The existing telecommunications anti-competitive conduct and access regimes have been widely criticised as being cumbersome, open to gaming and abuse, and provide insufficient certainty for investment," Senator Conroy said.

Since the commencement of the regime in 1997 there have been more than 150 telecommunications access disputes compared to only three access disputes in other regulated sectors, including airports and energy sectors.

The Government will strengthen consumer safeguards including the Universal Service Obligation, Customer Service Guarantee and the Priority Assistance arrangements to ensure consumers are protected and service standards are maintained at a high level.

In line with the Government's commitments to address impediments to Australia's long-term productivity growth, it will remove unnecessary regulatory burden on the industry.

"These fundamental reforms address the long-standing inadequacies of the existing telecommunications regulatory regime. They will drive lower prices, better quality and more innovative services," Senator Conroy said.

The reforms are supported by the overwhelming majority of the submissions received in response to the *National Broadband Network: Regulatory Reform for 21st Century Broadband* Discussion Paper released by the Government on 7 April 2009.

The legislative package is available online: www.dbcde.gov.au

Date: 15 September 2009

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BACKGROUND

Addressing Telstra's vertical integration

The legislation will allow Telstra to voluntarily submit an enforceable undertaking to the Australian Competition and Consumer Commission to structurally separate. The Minister can provide guidance to the ACCC on the matters it would take into account when considering whether to accept the structural separation undertaking.

If Telstra chooses not to structurally separate, the legislation provides for the Government to impose a strong functional separation framework on Telstra. This Bill proposes implementing a functional separation regime by altering the *Telecommunications Act 1997* to require that:

- Telstra conduct its network operations and wholesale functions at arm's length from the rest of Telstra;
- Telstra provides equivalent price and non-price terms to its retail business and non-Telstra wholesale customers; and
- this equivalence of treatment is made transparent to the regulator and competitors via strong internal governance structures.

Addressing Telstra's horizontal integration

The legislation will seek to promote competition across telecommunications platforms while allowing Telstra the flexibility to choose its future path.

Telstra will be prevented from acquiring additional spectrum for advanced wireless broadband while it:

- 1) remains vertically integrated; and
- 2) owns a hybrid fibre coaxial cable network; and
- 3) maintains its interest in Foxtel.

The legislation provides scope for the Minister to remove either or both of the second and third requirements in the event that Telstra submits to the ACCC an acceptable undertaking to structurally separate.

Reforms to the Competition Regime

The legislation will streamline the arrangements in Part XIC of the *Trade Practices Act 1974* (TPA) which allow parties to access regulated services so that:

- the ACCC will determine up-front terms and conditions for a three to five year period, following consultation with industry;
- the ACCC can determine principles to apply for longer periods; and
- the ACCC can make binding rules of conduct to immediately address problems with the supply of regulated wholesale services

The legislation will also reform the arrangements in Part XIB of the TPA so that the ACCC can address breaches of competition law and conduct damaging to the market. The ACCC will no longer have to consult with a party before issuing a competition notice; a process previously prone to delay and obstruction.

In addition, the reforms include clarification that the competition notice regime applies to content services – such as subscription television services – delivered by carriers and carriage service providers.

Strengthening consumer safeguards

Universal Service Obligation (USO)

The USO requires Telstra, as the universal service provider, to enable all people in Australia to have reasonable access on an equitable basis to standard telephone services, including payphones. The legislation will strengthen the USO by enabling Minister to specify the standards, terms and conditions of services, connection and repair periods, and reliability requirements of the standard telephone service. Telstra will be required to meet new minimum performance benchmarks. Failure by Telstra to meet the requirements will expose Telstra to a civil penalty of up to \$10 million.

The legislation also includes more stringent rules on the removal of payphones and new provisions to allow people concerned about a payphone removal to apply to the

Australian Communications and Media Authority (ACMA) to direct Telstra not to remove a payphone. Failure to comply with the new rules will expose Telstra to civil penalties or on-the-spot fines.

Once the detailed operating arrangements for the National Broadband Network (NBN) have been settled, the Government will consider the broader range of issues associated with the delivery of universal access. Meanwhile the Government will maintain the USO levy at the same rate for this financial year.

Customer Service Guarantee (CSG)

The CSG currently provides that telephone companies must financially compensate customers where certain minimum performance requirements are not met. The legislation provides new minimum performance benchmarks to require telephone companies to meet or exceed the CSG time periods for a certain proportion of cases. Failure to comply may result in civil penalties or on-the-spot fines.

Priority Assistance (PA)

PA arrangements require the highest level of telephone service to residential consumers who have a diagnosed life-threatening medical condition. The legislation will require telephone companies to either offer PA services or inform the customer where they can purchase these services.

Effective Enforcement of Consumer Safeguards

The legislation will provide the ACMA with increased powers to issue infringement notices (on-the-spot) fines instead of commencing procedures in court.

Removal of Unnecessary Red Tape

The Government will exempt carriers with a revenue less than \$25 million per annum from paying an annual Carrier Licence charge and reporting to the ACMA, as costs of compliance is often considerably higher than their monetary contribution.

The ACMA will reduce reporting requirements under the CSG, PA and the Network Reliability Framework, so long as performance benchmarks are being met.

The legislation includes measures to repeal unnecessary accounting and operational separation requirements once functional separation is in place or Telstra has submitted an enforceable undertaking to structurally separate that is acceptable to the ACCC.

The Government will remove the requirement on Telstra to provide technical assistance to enable customers to achieve 19.2 kilobits per second internet services, as the *Australian Broadband Guarantee* offers broadband speeds of 512 kilobits per second or higher to Australians who cannot access metro-comparable broadband services.