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COMMUNICATIONS OUTLOOK 1999

TELECOMMUNICATIONS: Regulatory Issues

Country: AUSTRALIA

Date completed: 1 June 1998

The attached questionnaire was undertaken in preparation for the biennial OECD *Communications Outlook*. The responses provided by countries on telecommunication regulation were used to provide information supporting the analytical sections published in association with data. A similar questionnaire with responses on broadcasting regulation is also available. In some cases, data for individual firms, used to compile OECD totals, have not been published at the request of the respondent. For further information, including data, see **OECD Communications Outlook 1999** and <http://www.oecd.org/dsti/sti/it/index.htm>

TELECOMMUNICATIONS

Market Structure and Regulatory Status (Questions 1 -13)

1. Please provide details of the regulation of communication infrastructure, including the public switched telecommunication network (PSTN), provision in your country.

Infrastructure provision for following service	Regulatory Status (e.g. monopoly, duopoly, limited number, fully open to any applicant)	Number of licensed operators (1998)
Local PSTN	Fully open to any applicant	3
National PSTN	Fully open to any applicant	2
International PSTN	Fully open to any applicant	3
Analogue Cellular Mobile (e.g. NMT etc.)	Fully open to any applicant	1
Digital Cellular Mobile (e.g. GSM etc.)	Fully open to any applicant	3
Other Mobile Communication (e.g. PCS, PCN, CT-2 etc.)	Fully open to any applicant	0
Payphones	Fully open to any applicant	1

2. Please provide details for the major public telecommunication operator (PTO) of public switched telecommunication services in your country. (PTOs are state and privately owned entities providing public switched telecommunication services over their own infrastructure)

Name of PTO	PTO Ownership Status (1998) (e.g. state owned/private owned) If a balance of ownership exists please indicate the share (%) held by the government
Telstra	Government 67% Shareholders 33%

3. Please provide details of market share for the largest PTO in the following categories.

	The largest PTO's share (End 1997)
Local Access (% of access lines)	Telstra Basic access Lines Total 9.35M (% N/A)
National Long Distance (% of total minutes)	Telstra Long Distance Total Minutes 10.326M (% N/A)
International (% of total outgoing MiTT)	Telstra international Minutes 700M (% N/A)

4. Please provide details of the number of subscribers by cellular and PCN mobile communication operators.

Name of Operator		Number of Subscribers (End 1997)
1. Telstra/Optus/AAPT	Digital	1,090,080,200
	Analogue	1,688,616,800
	Satellite	5,900

5. Please provide a description of the most significant recent policy changes affecting the provision of telecommunications services, as well as any draft laws, or regulatory proposals to be implemented in 1998.

There have been no significant regulatory changes since the commencement of the current regulatory regime on 1 July 1997.

A number of amendments were made to the *Telecommunications Act 1997* implementing changes to obligations on carriers and service providers to cooperate with law enforcement agencies and to make minor adjustments to the universal service regime.

On 15 March 1998 the Australian Government announced that, subject to receiving a mandate at the next Federal election, it intends to sell its remaining shareholding in Telstra. Legislation has been introduced into Parliament to give effect to this decision.

6. Please provide a brief description of the responsibilities of the national regulatory authorities for public telecommunication services.

To allow for a high degree of industry self-regulation, the Australian regulatory framework has involved the establishment of both Government and Industry regulatory bodies:

GOVERNMENT REGULATORY BODIES:

The Australian Competition and Consumer Commission (ACCC), is responsible for administering competition policy for the telecommunications industry (access arrangements, supplementary anti-competitive conduct provisions, record keeping rules, regulation of international activities) and price control arrangements for Telstra.

The Australian Communications Authority (ACA), which merged Australia's telecommunications regulatory authority, Austel, with the Spectrum Management Agency, is responsible for managing the radio frequency spectrum, administering the licensing of carriers, and administering consumer and technical issues relating to telecommunications.

It is proposed that there be cross-appointment of members/commissioners between the ACCC and the ACA,. Such arrangements assist in streamlining regulatory activities, allow for relevant expertise to be brought into decision making and minimise possible problems associated with potentially overlapping regulatory responsibilities.

INDUSTRY REGULATORY BODIES

The Telecommunications Industry Ombudsman (TIO). The TIO is an office of last resort available to individual consumers and small businesses, who cannot resolve their complaints with telecommunications companies directly. This means the TIO can provide a forum where a complaint is dealt with in a fair, reasonable and speedy manner at no administrative cost to the complainant. The TIO deals with complaints about telecommunications carriage service providers such as Telstra, Optus, Vodafone and approximately 90 other companies that provide telecommunications billing for telephone, fax, mobile and other services. More recently the TIO has been given authority to deal with complaints regarding Internet Access Providers (IAPs), approximately 475 companies in all. For further information see <http://www.tio.com.au/index.html>

The Australian Communications Industry Forum (ACIF), has been established to develop and administer industry technical and operating arrangements that promote both the long-term interest of end-users and the efficiency and international competitiveness of the Australian communications industry. This primarily involves ensuring timely availability of Technical Standards, Industry Codes of Practice and industry support services that the industry and community need. ACIF is an industry initiative, funded and resourced by the industry, with a membership that encompasses all industry sectors. ACIF comprises a Board, Advisory Assembly, Executive, six standing Reference Panels and a number of task-specific Working Committees.

A Telecommunications Access Forum (TAF), has been designated by the ACCC to fulfill two main functions: to recommend the declaration of services; and to submit a draft access code for approval by the ACCC (the only body which can do so). The TAF has membership open to all carriers and carriage service providers, and is capable of generating recommendations regarding the declaration of services and preparing draft access codes.

7. Are there any foreign ownership, size of shareholding or other ownership restrictions on individuals and corporations investing in the incumbent PTO(s) in your country? Yes/ No

Yes.

Under the requirements of the *Telstra (Dilution of Public Ownership) Act 1996* which allowed for the sale of one third of the Commonwealth's equity in the Telstra Corporation Limited in 1997, total foreign ownership was restricted to 11.6667% (or 35% of one-third), with individual foreign ownership restricted to 1.6667% (or 5% of one-third).

Foreign investment in the sector, with the exception of Telstra, is governed by the Commonwealth's general foreign investment policy under *the Foreign Acquisitions and Takeovers Act 1975*. Under this policy, investment proposals which exceed specified limits are subject to approval by the Foreign Investment and Review Board.

The Government announced on 15 March that it proposed, subject to receiving a mandate at the next Federal Election, to sell its remaining two-thirds stake in Telstra. Legislation currently before Parliament provides that the 35% total or 5% individual foreign ownership limits will apply to the proportion of non-Commonwealth shares.

8. **Are there any communication infrastructures or services (e.g. cable television, terrestrial broadcasting, satellite broadcasting) PTOs in your country who are not permitted to directly provide? In addition, please specify any restrictions on PTOs investing in companies that such infrastructure or services.**

No.

No.

9. **Is the incumbent PTO(s) in your country allowed to provide mobile communication services? Yes/No**

If 'yes', is there a requirement for accounting separation between the PTO's mobile and fixed operations?

Yes.

The Australian Competition and Consumer Commission is empowered to establish 'record-keeping rules' against which carriers and carriage service providers must comply. The ACCC is currently working with industry to develop rules under this power to assist it in administering its competition related powers. Accounting separation requirements under the previous regulatory regime continue to apply to Telstra until the new rules are established.

10. **What selection procedures are used to determine licenses for new PTOs (e.g. calls for tenders, government appointments, license on request)?**

There are no regulatory restrictions on market entry. Only persons owning certain types of network facilities must hold a carrier licence. There are no restrictions on the number of carrier licences which may be issued by the Australian Communications Authority.

11. **Please specify any restrictions or obligations imposed on new competitive network suppliers?**

There are no restrictions imposed on network suppliers (with the sole exception that no carrier may install or operate an analogue AMPS network). All carriers must comply with the Telecommunications Act and standard carrier licence conditions contained in Schedule 1 to the Act.

12. **Are there any restrictions on the use of leased lines nationally or internationally (including resale)? Yes/No**

No

13. **Under the communication regulation existing in your country how would national and international voice telephony services provided over the Internet, by entities other than a PTO, be defined and treated? Please mention any restrictions or obligations that may apply.**

It is likely that any provider would be a 'carriage service provider' and as such would be required to comply with the standard carriage service provider rules. Otherwise, there would be no restrictions.

Pricing (Questions 14 -15)

14. **What, if any, conditions are applied to the tariffs set by PTOs? (Please include any price control information such as price caps and specify for which service they apply).**

Conditions about tariff filing

The Australian Competition and Consumer Commission (ACCC) is able to direct carriers and carriage service providers to file tariff information with the ACCC if satisfied on reasonable grounds that they have a substantial degree of power in a telecommunications market. There is also a specific requirement for Telstra to file tariffs for its basic carriage services unless the ACCC has exempted a charge from this requirement. Both of these mechanisms allow the ACCC to examine carrier and carriage service provider conduct in telecommunications markets, including where the ACCC has concerns about potential anti-competitive conduct but an insufficient basis on which to issue a "competition notice", stating that the carrier or carriage service provider is engaging, or has engaged, in anti-competitive conduct.

Tariff information is only to be publicly available if the ACCC is satisfied that this would result in a net public benefit.

A tariff filing direction may contain requirements including:

- a requirement that the carrier or carriage service provider give the ACCC a written statement setting out information about telecommunications charges as specified in the direction;
- a requirement that the carrier or carriage service provider give the ACCC specified information about its intentions before imposing a new charge, varying a charge or ceasing to impose a charge; or
- a requirement that, in the event that the carrier or carriage service provider imposes a new charge, varies a charge or ceases to impose a charge, it give the ACCC specified information within a specified period.

Other conditions specific to the setting by Telstra of tariffs

The following conditions are also applied to the tariffs set by Telstra:

- Telstra must reduce the price of a basket of its main services (connections; line rentals; local, trunk and international calls; leased lines and mobile services) by 7.5% in real terms (ie the change in the Consumer Price Index (CPI) less 7.5%) for each calendar year between 1 January 1996 and 30 December 1998;

- Telstra must also reduce its standard prices for residential customers, for connections, line rentals, trunk calls and international calls by 1% in real terms each year during this period;
- Telstra must obtain the prior consent of the Australian Competition and Consumer Commission (ACCC) where it proposes to increase a charge that is subject to the price control arrangements by more than the change in the CPI during a year;
- the price of untimed local calls provided by Telstra must not exceed 25 cents per call for calls made from residential or business phones, and 40 cents per call for calls made from a public payphone; and
- Telstra's charges for directory assistance are subject to notification and disallowance which means that the Minister may, after receiving a report from the ACCC, disallow a charge on public interest grounds.

A new measure came into effect on 1 January 1998 to impose a price control mechanism on Telstra aimed at promoting greater parity in untimed local call prices between more competitive and less competitive markets. Under this scheme, the weighted average untimed local call price for residential/charity customers in rural Australia in 1998 is not to exceed the weighted average local call price for residential/charity customers in metropolitan Australia in 1997. Similarly, the weighted average untimed local call price for business customers in rural Australia in 1998 is not to exceed the weighted average local call price for business customers in metropolitan Australia in 1997.

The above conditions applying to Telstra are currently under review.

15. **If communication discount schemes are available in your country please provide information on one or more popular schemes applicable to residential users, dial-up Internet access users and a low user scheme from the incumbent PTO. In the space below please indicate the main features:**

Residential User Discount Scheme:

TELSTRA

Telstra offers a range of discount plans for residential users. An example of one discount plan is the Smart Saver Flexi Plan - On accounts where \$15 per month or more is spent on Telstra STD and 0011/0015 calls, a 15% discount will apply on the calls. Customers with bi-monthly or quarterly billing must spend \$30 or \$45 respectively per account.

OPTUS

Optus Relaxed Rates: where customers choose a rate plan from a choice of 5 and commit to remaining with Optus for 12 months (otherwise a \$40 penalty applies):

A International - pay for the first 20 minutes, receive the next 40 minutes free

B International - 30% discount

C International - pay for the first 10 minutes and receive a 60% discount on the rest of the call

D International/National - pay for the first 20 minutes and receive the next 20 minutes free

The above International discount plans apply only to a customer's pre-chosen selection of one of 40 international destinations and to calls to that destination (and National calls of plan D) between 6pm Friday and 6pm Sunday

E National - pay \$2 for 2 hours on Sunday between 6am and 6pm.

\$3 National Long Distance Capped Call: customers pay no more than \$3 for long distance calls that start between 7pm and midnight, Monday to Friday.

Internet Access Discount Scheme:

TELSTRA

For those customers in rural and remote areas who cannot access their ISP with a local number, Telstra offers access to Telstra Big Pond Home for the cost of a local call through the *Rural Access Pricing Plan*. Under this plan, customers can dial into Big Pond Home for the cost of a local call and then pay a subscription fee of \$14 per month, which includes the first two hours use in that month, and \$7 for each additional hour. This can provide significant savings for customers regularly accessing the Internet.

OPTUS

Optus is only a wholesaler of Internet.

Low User Scheme:

TELSTRA

In Contact is a free service for low income households with no service charges or connection fees where there is an existing connection and phone. *In contact* allows incoming calls but restricts outgoing calls to an emergency number and customer service calls.

OPTUS

Pensioners who preselect to Optus for their local calls (currently only in selected areas) receive a reduced monthly access charge.

Note: Residential user refers to an average consumer's home telephone service. A dial-up Internet user refers to a consumer accessing the Internet via a PC with a modem over the local public switched telecommunication network. Low user schemes is a term sometimes applied by PTOs to schemes designed for segments of the community that are financially disadvantaged.

Numbering/Domain Names (Questions 16 - 17)

- 16. Please describe the numbering policy in your country. Please mention the responsible authority and whether portability has been introduced and for which services (e.g. 800 numbers, cellular numbers, local PSTN numbers).**

The Australian Communications Authority is responsible for administering numbering in Australia. Numbering arrangements are established in the Numbering Plan issued by the ACA after consultation with the industry.

The ACA must establish rules requiring number portability where directed to do so by the ACCC. The ACCC, in determining whether to so direct the ACA must be satisfied that portability would be in the long term interests of end-users. The ACCC has directed that the ACA establish rules for number portability for local numbers, and freephone (1800) and local-rate (13) numbers.

The ACA has established rules requiring that all carriers and service providers (unless otherwise exempted) must be capable of providing local number portability from 1 May 1998 on the basis of an interim (facilities redirect) technical solution. A full solution, providing a quality of service for ported numbers equivalent to that provided to non-ported numbers, must be implemented by 1 January 2000.

Portability for freephone and local rate numbers is to be administered by an funded industry body. Portability for these numbers is expected to be operational in 1999.

The ACCC has asked the ACA to provide technical advice on the solutions for mobile number portability, including portability across different mobile technologies (eg GSM, CDMA and satellite services). The ACA is expected to report to the ACCC in September 1998.

- 17. Have there been any recent government policy initiatives in your country in respect to the administration of Internet top level domain names. (An example of a top level domain name is .be for Belgium). Yes/No**

Yes.

In consultation with a cross section of stakeholders interests, including ISPs, trademark and consumer organisations, the Australian Government developed a response to the US Government Green Paper, A Proposal to Improve Technical management of Internet Names and Addresses. The Australian government response supported the guiding principles identified in the US Green Paper and argued for a not for profit model of industry self regulation, stressing the need for global representation, and the development of jurisdiction-neutral dispute resolution mechanisms. The Government welcomed the US White Paper on Management of Internet Names and Addresses.

The National Office for the Information Economy (NOIE) is currently consulting with stakeholders on reforms in the management of the .au domain space.

Interconnection (Questions 18 - 21)

- 18. Are PSTN interconnect or access charges a matter for commercial agreement between operators and if so is there provision for arbitration and by whom? Is there a requirement to publish the rate for PSTN interconnect or access charges? Yes/No**

If 'yes' please provide a schedule of interconnection charges for the PSTN.

PSTN originating and terminating access charges are set either by commercial agreement, by an access undertaking approved by the regulator or (failing either of the above) by arbitration. The relevant regulator for arbitration and undertaking purposes is the Australian Competition & Consumer Commission (ACCC).

The ACCC is currently considering an access undertaking from Telstra in relation to PSTN originating and terminating access that includes interconnection prices. A decision on whether that undertaking is approved is expected in July 1998. There is no specified requirement to publish the rate for PSTN or any other access charges

- 19. For the purpose of establishing interconnect or access charges is accounting separation used?**

Telstra's current regulatory accounts require horizontal accounting separation along major product lines. The ACCC have been given record keep rules that allow them to develop a different accounting separation regime. An industry working group is currently assisting the ACCC in the development of a model that

contemplates vertical accounting separation

20. Once the interconnection or access charge has been established is it available as a standard rate for other service providers (including other PTOs and resellers)?

NO.

There is no single interconnection or access charge, either for PSTN or any other services

21. Does regulation specify that competitive service providers can co-locate facilities on the same site as incumbent PTOs? Please indicate whether resellers and Internet Service Providers can collocate equipment under the same terms and conditions as PTOs without being designated as a PTO?

Carriers are required to give other carriers access to transmission towers and underground facilities pursuant to legislation, in addition, there is a regime of access to services 'declared' by the regulator. If a service is declared by the regulator, an access provider must, if requested to do so by a service provider, permit interconnection of those facilities with the facilities of a services provider. The terms and conditions of that interconnection are set either by commercial negotiation or arbitration. They do not require a carriage service provider to take on carrier status.

Information for Updating OECD Tariff Comparison Baskets (Question 22)

22. Please provide the following information for your largest PTO.

What is the average duration of a local call (i.e., average time of a call in the lowest tariff band for PSTN)?	TELSTRA = 6 minutes OPTUS = 3.5 minutes AAPT =	
What is the proportion of calls that fall within your lowest tariff band (i.e. local calls) as a percentage of total national calls?	Business (%) TELSTRA = N/A OPTUS = N/A AAPT =	Residential (%) TELSTRA = N/A OPTUS = N/A AAPT =
What percentage of calls from the fixed network (PSTN) terminate in mobile networks (e.g. analogue and digital cellular networks)?	Business (%) TELSTRA = N/A OPTUS = N/A AAPT =	Residential (%) TELSTRA = N/A OPTUS = N/A AAPT =
What percentage of total leased lines (i.e. leased circuits) are local (i.e. 2 km or less)?	TELSTRA = N/A OPTUS = N/A AAPT =	

Universal Service/Consumer Issues (Questions 23 -25)

23. In the context of universal service policies which elements of telecommunication service are considered as part of universal service in your country?

The elements of telecommunication service that are considered as part of universal service in Australia include the provision of standard telephone services; payphones and prescribed carriage services.

The *Telecommunications Act 1997* prescribes that a reference to a standard telephone service is a reference to a carriage service for the purpose of voice telephony and if voice telephony is not practicable for a particular end-user with a disability, another form of communication that is equivalent to voice telephony; for example, communication by means of a teletypewriter.

Although the standard telephone service is defined as voice telephony, the voice service generally has the capability of carrying digital data (e.g. facsimile, e-mail, internet communications) at varying degrees of success. This is achieved by using analogue modems connected to the standard service. The rate of digital transmissions on the standard voice grade telephone line commonly achieves 28.8 kbps and 56 kbps is possible.

The Minister for Communications, the Information Economy and the Arts recently announced a review to determine whether a digital data capability should be incorporated into the Universal Service Obligation. The Review will determine whether the growth in digital communications applications such as the internet and other on-line services, and their growing importance to business and social communications means that Australians' access to these services should be made part of the USO. The Review will be carried out by the Australian Communications Authority. The ACA is to report to the Government by 15 August 1998.

24. Please provide details of any explicit funding mechanism for universal service and its coverage.

The Telecommunications Act 1997 provides that each financial year the Australian Communications Authority must make a written assessment setting out for each participating carrier: the carrier's eligible revenue, the carrier's levy debit and the carrier's levy debit balance (if any) for the financial year; and if the assessment sets out a levy debit balance of the carrier for the financial year, the levy payable by the carrier on that levy debit balance.

For each universal service provider in relation to a financial year, the Australian Communication Authority's assessment must set out: the universal service provider's net universal service cost, the universal service provider's levy credit balance (if any) and if the assessment sets out a levy credit balance of the universal service provider for the financial year, the amount payable to the universal service provider for the financial year.

A universal service charge is a charge imposed or proposed to be imposed on participating carriers or universal service providers for the purposes of the supply of standard telephone services to persons in an area; or calls made from payphones in an area or the supply of prescribed carriage services to persons in an area.

If a universal service provider incurs a loss (called a net universal service cost) from supplying services to certain areas (net cost areas) in the course of fulfilling the universal service obligation, the provider may

be entitled to a payment (a levy credit) to recoup those losses.

25. With what institutions other than telecommunication service providers can customers lodge complaints regarding these operators? (e.g. regulators, ombudsman, Ministry, etc.) Is there a requirement for annual reporting of the number of consumer complaints? If so how are complaints measured and reported.

Consumers can lodge complaints with the Telecommunications Industry Ombudsman (TIO), the Australian Communications Authority, the Australian Competition and Consumer Commission (ACCC) or, on an informal basis, the Minister for Communications, the Information Economy and the Arts.

The *Telecommunications Act 1997* requires that all carriers and carriage service providers must enter and comply with the TIO scheme. The TIO is an independent company, accessible to all residential and small business consumers of telecommunications services who remain dissatisfied after lodging a complaint with their service provider. The TIO has the power to investigate, make determinations and give directions relating to complaints about carriage services by end users of those services.

The ACA handles complaints on a range of telecommunications and radiocommunications issues, including Australia's universal service regime, the customer service guarantee, technical regulation (including customer equipment and standards), numbering, the analogue mobile phone system, electro magnetic interference and on the provision of advice to the radio community.

The ACA's Corporate Plan for 1997-2000 strongly focuses on consumer matters, including consumer safeguards, ensuring reasonable access to telecommunications services and on informing the community about communications issues.

The Plan identifies a number of key strategies including the establishment of consultative mechanisms, industry performance reporting, codes and standards and establishing comprehensive consumer information programs. The ACA's Consumer Affairs Group is preparing detailed plans to implement these strategies over the coming twelve months.

The ACCC has a general mandate to protect consumers, in particular in relation to misleading or deceptive conduct, and considerable powers to investigate allegations of anti-competitive conduct.

The TIO, being a company limited by guarantee, must produce an annual report. Statistical data it maintains on a range of consumer issues are published in the TIO's annual report, reflecting the jurisdiction of the TIO which includes, but is not limited to, basic carriage and higher level services, printed and electronic white pages, fault reporting and repair and maintenance services, public mobile telecommunications services, and billing not in accordance with the contract price. Statistical data collected include numbers and percentages of complaints categorised into investigation issues, case mix (inquiry, consultation, complaint and dispute), cases by State, comparison of cases by carriers and service providers, comparison of small business and residential cases and comparison of outcomes and time taken for resolution.

The *Telecommunications Act 1997* prescribes that the ACA is to monitor and report each financial year to the Minister on all significant matters relating to the performance of carriers and carriage service providers with particular reference to consumer satisfaction, consumer benefits and quality of service. The report is required to include the adequacy of each universal service provider's compliance with its obligations. The ACA reports publicly each quarter the number of customer complaints that were made to the two main carriers.