



Background to 1997

CU outlines the historical path leading to the post-1997 telecommunications regime

The advent of full competition in core telecommunications facilities and services caps a period of just over two decades in which the industry has been separated from the government's postal conglomerate, restructured and progressively opened to competition.

In 1975, Telecom (formally, the Australian Telecommunications Commission) was established as monopoly carrier of most telecommunications services within Australia. Prior to that, these services had been provided by the Post-Master General's Department. OTC (Overseas Telecommunications Commission), established in 1946, continued as the monopoly provider of overseas telephone services. Telecom was also made the technical regulator of customer equipment, private networks and value-added services (VAS).

In 1981, AUSSAT was incorporated to establish and operate the domestic satellite system; and commenced operations in 1985 when the first satellite was launched.

The 1989 Act

As early as 1982, the government had been examining ways in which the telecommunications industry could be made more efficient and robust. The Davidson Committee of Inquiry into Telecommunications Services in Australia (Davidson Committee) recommended greater private sector involvement in the industry. Although these recommendations were not taken up at the time - the government's main aim being the fulfilment of its universal service aspirations - they were revisited in the Evans Ministerial Statement, *'Australian Telecommunications Services: A New Framework'*, and implemented in the Telecommunications Act 1989.

Under this regime, full competition at the edges of the industry - customer equipment and cabling, and VAS - was progressively introduced, together with supporting regulatory and industry development arrangements. AUSTEL (Australian Telecommunications Authority) was established as the industry's technical, competition and consumer regulator. The basic service monopolies of Telecom, OTC and AUSSAT remained untouched. However, the prices for their monopoly services were regulated and the organisations themselves were corporatised and subject to other reforms.

The 1991 Act

In 1990, the Prime Minister's *'Transport and Telecommunications Reform'* and the Minister's (Beazley's) *'Micro-economic Reform: Progress Telecommunications'* Statements foreshadowed the staged demolition of the government's monopoly in core telecommunications facilities and services. In the Telecommunications Act 1991 which followed them, Telecom and OTC were merged into AOTC (later Telstra Corporation). Optus was licensed as the second general and mobile carriers, with Vodafone later licensed as the third mobile carrier. The loss-making AUSSAT, together with its satellite licence, was sold to Optus. The legislation also permitted the full resale of domestic and international

telecommunications capacity, as well as open competition in public access cordless telecommunications services.

The regime recognised the general carriers as the primary providers of Australia's telecommunications infrastructure and networks and the primary suppliers of telecommunications services. An access regime was devised, under which the new carriers could purchase Telecom's network capacity and other elements on terms (primarily, but not exclusively, price-related) conducive to the achievement of sustainable competition. In order to promote competition in the facilities themselves, the general carriers were given 'reserved rights' to install and maintain non-private line links and immunity from most environmental laws.

AUSTEL's powers were enhanced and new competitive and consumer safeguards were put in place. So as to maintain social policy objectives in this environment, Telecom's universal service obligation was maintained, with all carriers being required to contribute to its costs.

The new regime

The 1991 regime was always intended to be transitional. The underlying premise of the duopoly was that Telstra's pre-existing control of most of the Australian telecommunications market and, more importantly, the network was not conducive to the development of sustainable competition in either services or facilities. Under the Telecommunications Act 1997, full competition will be introduced in both.

Any party wishing to become a carrier may do so, and thereby eroding the value of the reserved rights of existing carriers. In line with government policy, the regulatory regime is being brought more into line with general competition laws. AUSTEL is being merged with the Spectrum Management Agency to become the Australian Communications Authority (ACA). While the new body retains its technical regulatory functions of its predecessor, competition regulation is being transferred to the ACCC. While industry-specific competition regulation remains (albeit in a 'lighter touch' form), the legislative vehicle has switched from the Telecommunications Act to the Trade Practices Act, which contains a new Part 11 to cover the regulation of access and general anti-competitive conduct.

The general progression of the telecommunications industry from a public to private model effected by market liberalisation has been expedited by the government's decision to sell one-third of its equity in Telstra. This liberalisation is counterbalanced by the government's imposition of the 'customer service guarantee' and its retention of the universal service obligation, enhanced by the legislative requirement of 'digital data capability' (broadly speaking, ISDN access) to 96% of the population by the end of 1998. □

The Telecommunications Act 1997 was passed on 26 March, with most provisions coming into effect on 1 July. Australian Telecommunications Regulation - the Communications Law Centre Guide will be available in June.