

# Tougher rules for telecoms and Internet service providers

*The Senate committee which looked at the Telstra sale legislation has recommended some important changes for consumers and the industry*

**C**ompanies providing mobile telephone services and Internet access will be required to determine and publish standard terms and conditions of service, and provide a summary of them to their customers, if the recommendations of a parliamentary committee are accepted. The Senate Environment, Recreation, Communications and the Arts Legislation Committee, chaired by Victorian Liberal, Senator Kay Patterson, recently published the report of its investigation into the Telstra (Transition to Full Private Ownership) Bill 1998.

The Committee split on the issue of whether or not to privatise the rest of Telstra. But on some issues, there was something closer to a common view. Several proposals put by the Communications Law Centre (CLC) and others in their submission were accepted.

The Telecommunications Act requires standard terms and conditions of service to be determined and published by all providers of "standard telephone services" and any other services set out in regulations. The CLC's proposal that standard agreements be required for mobile telephony and Internet access services, and that service providers be required to provide to all their customers a summary of such terms and conditions, was endorsed by senators.

The CLC made a number of recommendations to improve the effectiveness of the customer service guarantee, which came into operation only on January 1, 1998. Government members endorsed two recommendations: that service providers should be required to inform their customers of obligations and penalties under the Customer Service Guarantee; and that penalties for delays in installing and repairing services should be increased where the delay is particularly bad. That is, not only should the actual penalty (calculated as a particular sum per day) increase, but the per day penalty should increase, say from one month's rent (currently \$11.65 for a residential customer) to \$100.

Democrat and Green Senators also recommended that two other proposals put by the CLC and others be accepted: the Australian Communications Authority (ACA) be able to set customer service guarantee performance standards without the need for ministerial direction; and service providers should automatically pay compensation where they breach relevant standards, rather than waiting for the customer to enforce the customer service guarantee.

Government members recommended that a portion of the proceeds from the sale of Telstra should be used to upgrade rural telecommunications infrastructure. They also recommended that schools, particularly rural schools, should pay residential rather than business rates for services.

Democrat and Green senators recommended that the "standard telephone service" be expanded to include mobile telephony and Internet access and that a regular review of universal service arrangements be required by legislation.

Much of the committee's time was spent considering broader issues about the adequacy of the Telecommunications Act to ensure a genuinely competitive telecommunications industry. Government members made recommendations for the legislation to be amended in two areas.

First, they recommended amendments to give the Australian Competition and Consumer Commission (ACCC) power to collect and publish Telstra's internal cost data to facilitate interconnection negotiations.

Second, they recommended amendments to enable parties adversely affected by alleged anti-competitive practices to take action under the special anti-competitive conduct provisions of the Telecoms Act, regardless of whether the ACCC has issued a "competition notice" (a notice which sets out a prima facie case that someone is behaving anti-competitively).

In practice, this is likely to provide only a marginal advantage to industry players. They can already take action themselves under the general provisions of the Trade Practices Act: the recommended change would enable them to take action under the Telecoms Act, which requires them to establish only anti-competitive effects, not anti-competitive purpose.

ALP senators recommended going further and giving the ACCC the power to issue interim "stop" orders pending investigation of alleged anti-competitive conduct. Telstra has resisted this kind of power, which it says would give the regulator the ability to stop it engaging in conduct which is subsequently shown to be entirely legitimate.

In the event that the legislation passes, Democrat and Green senators recommended that the minister's current power to direct the corporation, which the current bill would remove, should be retained.

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