

ACTU

Submission

**Response to the National Broadband Network:
Regulatory Reform for 21st Century Broadband,
Discussion Paper, April 2009**

**Australian Council of Trade Unions
June 3, 2009**

1.0 Introduction

The Australian Council of Trade Unions (ACTU) represents 2 million employees working across all sectors of the Australian economy. Three Unions represent employees within the telecommunications sector – the Communications, Electrical, and Plumbing Union (CEPU), the Community and Public Sector Union (CPSU), and the Association of Professionals, Engineers, Scientists & Managers, Australia (APESMA). The ACTU strongly endorses the Federal Government’s proposal to support the creation of a Fibre to the Home National Broadband Network (NBN) in the belief that our members, and working families across Australia, will benefit from this initiative as workers, as users of communications services and as citizens. The ACTU believes that this project needs to serve the national interest, create good jobs for the future and take into account the needs of all Australians.

The ACTU welcomes the opportunity to contribute to the public debate over regulatory issues relevant to the delivery of critical telecommunications services during the rollout of the NBN. The NBN project represents an opportunity for the Government to address the issue of skill shortages in the industry and to encourage the development of a highly skilled telecommunications workforce supported by conditions which encourage high quality work.

During the transition phase it will be important to ensure that the regulatory settings for the industry are appropriate, and the needs of all stakeholders, including customers, business, and the industry workforce, are met.

2.0 Separation arrangements for Telstra

The regulatory reform paper canvasses a number of options for implementing a further separation of Telstra. The unions have deep concerns about the employment impacts of functional or structural separation of Telstra. In any consideration of structural change to the incumbent, affected employees and unions that may be working with this new structure must be consulted. The ACTU believes both the Federal Government and Telstra must act to ensure the continuity of employment and conditions on both sides of the potential separation boundaries. This must recognise the rights of telecommunications employees to collectively bargain, and to union representation.

Should further separation include horizontal separation, i.e., the divestiture of Hybrid Fibre Coaxial networks used to deliver Foxtel and high-speed internet services, then the same principles should apply to those employees currently maintaining and provisioning services over those networks. The Federal Government and Telstra must act to ensure the continuity of employment and conditions on both sides of the potential separation boundaries. This means recognising the rights of telecommunications employees to collectively bargain, and to union representation.

In particular, if any new legal entity is created, either through functional or structural separation of any networks, and assets and workforce are transferred to that new company then the ACTU believes that the following five conditions should apply:

1. That the new company be obliged to employ the workforce that is currently responsible for those areas of the business that are separated;
2. That the employment arrangements of those employees be retained;
3. That any qualifying period for unfair dismissal under the Fair Work Act to come into effect from July 1 be waived;
4. That any accrued entitlements, including annual leave and long service leave be carried over; and,
5. That any policies pertaining to employment conditions be no worse than those applying at Telstra, for example, any redundancy policies.

These conditions should also apply if any of the networks are transferred to an existing company.

3.0 Universal Service Obligation and Quality of Service Standards

The ACTU strongly supports the provision of Universal Service to all Australians, regardless of where they live or work. Should the provision of the USO transfer to the new network, appropriate transition arrangements must be in place in order to ensure continuity of service for all end users.

3.1 Scope of the Universal Service Obligation

An NBN built as an addition to the existing national PSTN leaves the cornerstone of the current USO scheme – the technical ability to offer the standard telephone service ubiquitously – untouched. The ACTU acknowledges that in future certain regulatory requirements that attach to the standard telephone service, such as the requirement for Call Line Identification, will become obsolete. Nevertheless we consider the ongoing availability during the period of technological transition to full end to end fibre networks of a lifeline voice service with current Quality of Service standards as a threshold issue for social policy.

Furthermore, the ACTU believes that in a changing technological environment, the Universal Service Obligation should apply to all those services that are necessary to participate fully in the community, and should not discriminate on the basis of where people choose to live and work. We agree with the Consumers' Telecommunications Network that voice services are no longer a sufficient basic service to ensure participation in the social and economic life of the community. As stated in their submission to the 2007 USO Review, many government and business services have moved online over the last decade, and many more will do so over the next. In terms of equitable access to government, and to the many economic opportunities the digital age represents, broadband services must be included in any revision of the USO, or any potential Communications Service Standard.

While not denying that a growing number of citizens are now choosing to use alternative voice services for their communications needs, we do not believe that these new services will necessarily replace the need for the provision of traditional voice services. Australia has high mobile penetration rates and there is a steady, although still limited

take-up of VoIP services, some of which will not meet the requirements of the standard telephone service. Some customers may be willing to give up their circuit-switched voice service altogether. Carriers now beginning to offer “naked” DSL appear to expect such a change in consumer behaviour.

We understand that to date, however, the number of citizens choosing to adopt such strategies appears to be quite small. For instance, in the case of VoIP, the Australian Communications and Media Authority (ACMA) suggests, on the basis of recent research that only 15% of consumers and 13% of small to medium enterprises (SMEs) had taken up VoIP services by mid-2007.¹ Of these it can reasonably be assumed that an even lesser number were totally reliant on VoIP and had given up their circuit switched fixed line service. The report predicted an increasing take-up of such services, but analyst predictions suggest they will still represent the minority of users for the foreseeable future.

The continuing reliance of the great majority of the population on ongoing access to the standard telephone service is further suggested by ACMA’s estimates of the number of fixed line services (still a reasonable proxy for the standard telephone service, despite the appearance of naked DSL) in operation in Australia. According to ACMA’s most recent *Communications Report*, these number some 10.92 million, a reduction of 2.9% over the previous year (i.e. since June 2006) but still a figure that departs little from historic fixed line penetration rates.²

Clearly, in an industry that is experiencing rapid technological change, we can expect this to adapt to the new services available. However, for those sectors of society that are particularly dependent on the basic telephone service, continuity in service must be ensured, and the level of quality maintained or improved.

In the case of legacy voice services, the ACTU favours an approach which ensures that customers are not worse off, in terms of the prices they face for these services, than they were prior to the roll-out of the FTTH. This implies an ongoing requirement for local

¹ ACMA, *The Australian VoIP Market: The supply and take-up of VoIP in Australia*, April 2008, p.5

² ACMA, *Communications Report 2006-07*, April 2008, p. 74

calls to be offered at uniform prices nationally and an ongoing price cap of CPI-0 (i.e. no real price increase) on a basket of voice products.

3.2 Quality of service, connections and faults repairs

The ACTU agrees with the conclusion of the Glasson Report that working days should be replaced with calendar days in repair timeframes, and that service disruption criteria should be tightened to ensure the exemption only applies where specific objective criteria, such as are used by meteorological, insurance industry and emergency declaration standard, are met.

For well over a decade, the unions representing the Telstra workforce have been drawing attention to the state of the Telstra fixed network, on which the overwhelming majority of Australians still rely for any-to-any telecommunications services. In 2005, after years of denial, Telstra acknowledged its history of underinvestment in the Customer Access Network (CAN), suggesting that a further \$2-3 billion in opex and capex should have been spent in this area over the preceding 3-5 years.³ It reported that over 14% of its lines had faults. Yet since that time, spending on the CAN has in fact declined.

Given that the rollout of the NBN will be undertaken progressively over the next eight to ten years, many communities will continue to be reliant on the provision of legacy services over Telstra's CAN. The maintenance of that network is therefore of crucial significance in the short to medium term. The ongoing provision of circuit-switched voice services will, in the ACTU's view, still be necessary for some time into the future if customers are to continue to enjoy the level of functionality currently required of the Standard Telephone Service (STS).

The ACTU is very concerned at the deteriorating performance in the telecommunications industry when it comes to customer service, connections and fault repair. The last decade has witnessed a significant shift in the performance of customer service functions, with an increasing reliance on sub-contractors and labour hire staff. In the

³ See *Telstra: The Path Forward*, Presentation for the Minister for Communications and the Arts, August 2005. p.14.

case of Telstra, the CEPU estimates that the full-time domestic workforce is now almost half that of the pre-privatisation workforce.⁴ They further estimate that 40% of field workforce tasks are now performed by sub-contractors.⁵

In their submission to the Glasson Review, the CEPU noted:

Telecommunications sub-contractors engaged on Telstra work perform a range of fixed network tasks including installation and maintenance, running jumpers in exchanges and pre-provisioning in housing estates. They are paid on the basis of piece rates which are in turn determined by the contract price struck between Telstra and its head contractors...

The most recent restructure, termed Project Simba, saw the large scale rationalisation of contracting operations, with the number of companies providing such service to Telstra being reduced from over a hundred to just three. This rationalisation was designed to produce efficiencies, both through scale economies and by the provision of certainty over service areas, which in turn could allow lower prices. Whether or not such efficiencies have in fact been achieved, the competition for the contracts in fact resulted in tighter margins for the contracting companies and these have flowed through to sub-contractors in the form of lower piece rates.

Such squeezes on rates have a two-fold effect. **They increase the pressure on contractors to perform more work per day, leading to the cutting of corners on jobs**, and they lead to some sub-contractors leaving the industry altogether, adding to the skill shortage problems...⁶ (emphasis added)

The ACTU believes that the severe cutbacks to staffing levels have contributed significantly to the deterioration of performance standards with respect to connections and fault repairs. This, combined with internal incentives to the workforce to provide 'quick fixes' to network problems means that problems in the network go unresolved, leading to large backlogs in serious faults.

⁴ CEPU submission to the Regional Telecommunications Review, May 2008

⁵ CEPU submission to the Regional Telecommunications Review, May 2008

⁶ CEPU submission to the Regional Telecommunications Review, May 2008

According to the CEPU, internal employees who do technical and line maintenance work are being pressured to keep job completion statistics high, at the expense of quality customer service. As an example, CEPU members have reported that if there is a fault in a local pillar - a fault that might be complicated and therefore time consuming to fix - field staff will change the line to another copper pair, which is a quick but temporary fix that will require maintenance again in a month. The job completion statistics might be high where there is pressure to complete tasks quickly, but it also negatively impacts on the quality of customer service being provided. There are incentives for employees to complete easy jobs first, and also jobs that can be dealt with temporarily, but not comprehensively, in order to complete the requisite number of jobs each day.

Further examples of such work practices are detailed in the CEPU submission to the Glasson Review.

3.3 Customer service guarantee

As the regulatory paper notes, performance against ACMA benchmarks has been declining for some years. The statistics regarding complaints made to the Telecommunications Industry Ombudsman also tell this story, particularly with relation to Telstra. The 2008 TIO Annual Report shows the total complaints figures rising by 58% in the prior twelve month period, while complaints made against Telstra rose by 81%.⁷

The most recent round of quarterly TIO statistics from the period Oct-Dec 2008 show that the problem of poor customer service continues to worsen. The overall number of complaints against Telstra in the final quarter of last year rose 63% on the number of the previous quarter, rising from 34,251 to 55,780 complaints.⁸ Overall complaints to the TIO from all carriers rose only 18.2%.⁹

⁷ Telecommunications Industry Ombudsman, *Annual Report 2007 / 08* (available at: http://www.tio.com.au/publications/annual_reports/ar2008/annual_2008index.html)

⁸ Telecommunications Industry Ombudsman, *Complaints against TIO members by issue, 1 July 2008 to 30 September 2008*, http://www.tio.com.au/publications/TIO_talk_issues/41/TIOByIssue.pdf, and Telecommunications Industry Ombudsman, *Complaints against TIO members by issue, 1 October 2008 to 31 December 2008*, http://www.tio.com.au/publications/TIO_talk_issues/42/Dec08_TIO_ByIssue.pdf

⁹ Telecommunications Industry Ombudsman, *Complaints against TIO members by issue, 1 July 2008 to 30 September 2008*, http://www.tio.com.au/publications/TIO_talk_issues/41/TIOByIssue.pdf, and Telecommunications Industry Ombudsman, *Complaints against TIO members by issue, 1 October 2008 to 31 December 2008*, http://www.tio.com.au/publications/TIO_talk_issues/42/Dec08_TIO_ByIssue.pdf

Overwhelmingly, staff in front line customer service positions are forced to bear the brunt of customer dissatisfaction, with inadequate training, and inflexible and unrealistic individual performance criteria being forced on to staff. The ACTU believes that this approach to human resource management in Telstra in particular, is contributing to the deterioration of customer service standards.

We believe that the continuing trend of outsourcing and offshoring customer service jobs, particularly in rural and regional Australia is also having a deleterious effect on customer service standards in the industry, and is contributing to rising customer dissatisfaction. Furthermore, we are concerned privacy implications in the transfer of personal and confidential information about telecommunications customers to overseas locations.

3.4 Payphones

Regardless of where payphones are located, they must be kept in good repair, and be available for use. Payphones are particularly important for rural and remote communities, and vulnerable urban communities, such as the homeless. As payphones are a crucial public service, any strengthening of the reliability, connections and fault report framework must apply to the maintenance of payphone facilities.

3.5 Enforcement

If the standards are going to be applied in a manner that truly protects the quality of service for consumers, then the enforcement mechanism must be robust, and any penalties must act as a genuine deterrent to breaching those service standards. The ACTU supports the proposal to give ACMA the power to issue infringement notices, as an alternative to the institution of proceedings in a court.