



11 May 2007

Consumer Policy Inquiry
Productivity Commission
PO Box 80
BELCONNEN ACT 2616

By email: consumer@pc.gov.au

Dear Commissioners

Optus appreciates the opportunity to comment on the Issues Paper released by the Productivity Commission in relation to Australia's Consumer Policy Framework. Optus also appreciates the opportunity we had to meet with the Commission to discuss the Issues Paper and some of the scenarios Optus encounters in its role as a national, full-service telecommunications provider.

We note that the Australian Mobile Telecommunications Association (AMTA) and the Communications Alliance, both telecommunications industry organisations, have presented submissions to the Commission. Optus is a member of both organisations and endorses their submissions.

Telecommunications regulation

As the Commission is aware, telecommunications is a co-regulated industry. As a national company, operating in each Australian state and territory, Optus must comply with Commonwealth, state and territory legislation, regulator determinations and a raft of industry Codes and Standards.

It should be noted that telecommunications industry Codes that are directly related to consumer protection (the so called 'consumer Codes') are registered with the industry regulator -- the Australian Communications and Media Authority (ACMA). Codes that have been registered with ACMA effectively have the force of law, so these Codes should not be considered as 'voluntary' Codes. Further information on the industry's consumer Codes can be found in the submission of the Communications Alliance.

In some scenarios, as well as the industry specific co-regulatory Codes, several other pieces of economy-wide or industry specific legislation or regulation apply to the same issue -- for example in the Consumer Contracts space, Optus must comply with:

- the *Trade Practices Act 1974 (Cth)*
- Part 23 of the *Telecommunications Act 1997 (Cth)* and the regulations about Standard Forms of Agreements made under Part 23 by the Minister
- the *Telecommunications (Standard Form of Agreement Information) Determination 2003* made by ACMA



- Part 6 of the *Telecommunications Act 1997 (Cth)* and industry codes made under Part 6, including
 - the ACIF C620:2005 Consumer Contracts Industry Code
 - the ACIF C521:2004 Customer Information on Prices, Terms and Conditions Industry Code, and
- state and territory fair trading and contracts legislation.

It is evident that this would be one area of regulation which would benefit from a consistent national consumer protection regime.

A national framework

Optus' experience suggests that duplicative and overlapping obligations lead to unnecessary administrative burdens and additional costs, without necessarily delivering better outcomes for consumers. To avoid such situations, it is vital that a national consumer protection framework is developed. To be viable and effective, such a framework should display the following characteristics. It should:

- Be up-to-date and reflect current consumer needs
- Be based on generic, high level principles that can be easily interpreted and applied across the economy, leaving industry-specific guidance to be provided in industry codes of practice
- Have some form of legislative backing
- Only allow for new regulation (whether self-regulation or government regulation) where there is evidence that a problem exists and that the introduction of regulation will assist to manage or resolve the problem
- Be regularly reviewed (and require that a piece of regulation / legislation be rescinded when there is no longer a demonstrated need for it)
- Require that state-based legislation be consistent with national legislation and industry-specific regulations
- Minimise overlaps in regulation
- Minimise the number of jurisdictions that regulate the same issues
- Reduce red-tape (and therefore costs) for business

Optus supports self- and co-regulatory approaches, but notes that these industry-specific solutions must be balanced with the need for economy-wide regulation on some subject matters. Where a self- or co-regulatory initiative is undertaken, it must be given time to be implemented and deliver the desired outcomes before any government intervention.

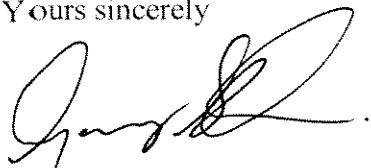
As per some of the examples outlined in the AMTA and Communications Alliance submissions, there have been occasions where a number of different regulatory approaches to the same issue have been attempted by different jurisdictions. This has led to an element of commercial uncertainty for industry, resulting in a hesitance to invest in new and innovative products and technology until regulatory certainty could be provided.

Optus, as a telecommunications provider to residential consumers, small business operators, large corporations and government agencies across Australia, on a daily basis faces a range of legislative and regulatory instruments and obligations. These obligations are often not consistent, in part due to overlapping jurisdictions and duplicative and differing regulations. In Optus' view, there is considerable benefit to be gained, both for consumers and for industry, from the adoption of a streamlined, national approach to consumer protection.

We welcome any initiatives that will help Australia move towards an efficient and viable national consumer policy framework, empowering and protecting consumers as well as reducing the regulatory burden on Australian businesses.

We look forward to the outcome of the Commission's work.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Gary Smith', with a stylized flourish at the end.

Gary Smith
General Manager, Regulatory Compliance and Self Regulation