



Office of Communications,
Science and Advanced Technology

N O R T H E R N T E R R I T O R Y

Comment on the Performance of Telecommunications Specific Competition Regulation

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Northern Territory Government

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1 INTRODUCTION

This submission is a response to the Productivity Commission's call for submissions to the Review of Telecommunications Specific Competition Regulation. The Northern Territory Office of Communications, Science and Advanced Technology welcomes an opportunity to expand on matters raised in this submission if this would be of assistance to the Inquiry.

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Section 151CN of the Trade Practices Act 1974 requires that before June 2000, the Minister for Communications, Information Technology and the Arts should cause to be conducted a review of Part XIB of that Act which deals with anti-competitive conduct in the telecommunications sector.

- The operation to date of Parts XIB and XIC of the Trades Practices Act 1974 and certain provisions of the Telecommunications Act 1997;
- The community and economic benefits and costs flowing from those provisions;
- Whether those provisions are sufficient to prevent integrated firms taking advantage of their market power with the purpose or effect of substantially lessening competition a telecommunications market; and
- Whether any or all of these provisions should be repealed or amended.

The terms of reference specifies that the inquiry will not encompass the structural separation of Telstra, in line with government policy on this issue.

2 OVERVIEW

The intent of the 1997 telecommunications reforms was to bring the power of competition to bear on the Australian telecommunications market in order to deliver improved social outcomes by encouraging innovation, securing competitive prices and better services.

In many areas of telecommunications that is just what the industry appears to be delivering. The continued, controlled encouragement of competition may be seen by many as a sustainable method for the continued improvement of Australian telecommunications. However, the competition legislation is not a panacea for Australian telecommunications shortcomings; the success of the telecommunications competition regime has not reached to all members of the Australian community.

Nobody was ever under the illusion that the provisions of the Trade Practices Act XIB and XIC alone would be sufficient to provide affordable, equitable and reliable basic telecommunications services to all Australians. However, the inability of competition policy to engender competition in remote areas, or to encourage the roll-out of infrastructure in thin market areas must be a disappointment to many.

The competition regime is working only where rich competition already exists. The geography and the population distribution of Australia are such that considerably more work needs to be done to develop the right tools to encourage competition in the more thinly populated parts of the country. The competition regulations have proved to be insufficient to cause adequate competition in marginal or loss making service areas. Many of these marginal or loss making areas are in the Northern Territory. The Northern Territory conditions are sufficiently different from other jurisdictions to warrant a closer look at how regulation is operating in remote areas. Remote area dwellers currently do not have the telecommunications they need to participate in the wider Australian community, let alone any choice. The Telecommunications Service Inquiry submissions and hearings indicate that non-Telstra carriers have not made any appreciable investment in remote areas since 1997. While Telstra has in fact made some investment in remote areas, this is not sufficient to deliver even the USO to all Australians let alone provide equitable access to the services that people need.

It is appreciated that the limitations of competition are understood by the Productivity Commission and the Australian Consumer and Competition Commission (ACCC) and that other Commonwealth programs such as Untimed Local Calls in Extended Zones (ULCEZ) and the contestability pilots are designed to address instances of market failure through structured subsidies and support for infrastructure upgrades. However, in marginal areas it is feared that these measures may fail to introduce any real element of competition and will amount solely to an extension of ongoing subsidies to unprofitable areas. The appointment of a Regional Universal Service Provider other than Telstra may merely replace one monopoly with another in the long run unless Australian competition policy can embrace those marginal areas of the telecommunications market that currently do not attract commercial investment.

3 THE NORTHERN TERRITORY CONDITIONS

3.1 The Demography of the Northern Territory

The Northern Territory demographics differ significantly from other jurisdictions. Telecommunications policy must understand and address this difference if it is to contribute to the goal of universal access to reliable, affordable basic voice and data telecommunications, equitably to all Australians.

The Northern Territory occupies approximately one sixth of Australia's landmass yet accounts for only 1% of the national population. In 1999, there were 193,000 people living in the Northern Territory, swelled seasonally by a large number of international and domestic tourists. At 1,360,200 square kilometres, it has a population density of only 0.1 persons/km². This is lower than any other State or Territory and well below the national density of 2.4 persons/km².

A recent study of remoteness has classified almost all of the Territory as remote or very remote. No part of the Northern Territory was classified as accessible as Brisbane, Sydney or Melbourne.

	Classification	Description	Examples
1	Highly accessible	No restrictions on accessibility	No location in the NT
2	Accessible	Some restrictions on accessibility of some goods, services and opportunities for social interaction	Darwin CBD and suburbs
3	Moderately accessible	Significantly restricted accessibility of goods, services and opportunities for social interaction	The rest of Greater Darwin
4	Remote	Very restricted accessibility of goods, services and opportunities for social interaction	Alice Springs, the NT's second largest town
5	Very Remote	Locationally disadvantaged, very little accessibility of goods, services and opportunities for social interaction	Almost everywhere else

University of Adelaide: *Measuring Remoteness: Accessibility/Remoteness Index of Australia*

The Territory's population is concentrated in the urban centres, with Darwin and its rural areas accounting for over half (52.6%) of the total Territory population. Alice Springs accounts for a further 13.7% with the other major centres accounting for 9.2%.

This means that just over a quarter of the population of the Northern Territory live in remote areas. The majority of these people live in remote communities with very little telecommunications infrastructure. Under these conditions, communications access to information and other services becomes a major issue for the Northern Territory

3.2 Special Telecommunications Needs

People living in remote areas stand to gain the most from access to reliable telecommunications. Unfortunately, they do not yet have it. The current competition regime has not provided the incentive for any unsubsidised carrier to invest in these areas, nor will it in its current form.

Telecommunications is an economic and social equity issue that is central to the prosperity and quality of life of Territorians. Many of the remote and very remote areas are unlikely, in the short term, to provide sufficient commercial incentive for the telecommunications services that they need. However, there are compelling reasons to provide telecommunications other than for commercial gain. Government has a constitutional responsibility to ensure law, order and the delivery of effective government to support the welfare and prosperity of its people. This applies equally to remote areas as it does to urban areas. Moreover, in remote areas telecommunications for the delivery of government services is of greater importance than in urban areas just because remoteness presents greater dangers and problems that telecommunications can overcome.

Outside Darwin and Alice Springs the telecommunications infrastructure in the Northern Territory has limited capability and its development is not commensurate to that of the eastern seaboard. Even voice services are not equitably available to all Territorians; this includes some Territorians living in proximity to the Stuart and Victoria Highways. Many locations rely on 2.4 Kbps DRCS infrastructure for voice, data and internet services. This infrastructure can only meet basic community voice needs and is incapable of meeting data and internet requirements as it can only sustain low speed text information with no graphics, video or animation. In many cases, this infrastructure cannot be relied upon in an emergency, especially during the Wet season.

Intense competition at the top end of the market has helped to develop the demand side of the equation as well as delivering an ever more sophisticated supply side. Unfortunately, not all Australians have enjoyed this. While the lives of urban consumers continue to become steadily more dependent on email, the internet, multi-media services, e-commerce and e-business, distance education and access to government services, Australians in remote areas struggle to acquire levels of telephony services that were readily available in urban areas prior to World War II. Not only are they disadvantaged in an absolute sense but they are becoming rapidly worse off relative to the rest of Australia and at an unprecedented rate. Relatively, remote area Australians are considerably worse off now than they were in 1997.

Competition policy may not prove to be the primary means of delivering a solution to all that ails remote Australia but now that the concept of competition has been well entrenched in the Australian telecommunications psyche it is now the time to assess whether it can be better deployed to assist those parts of the telecommunications market that stand to gain the most from the advanced technology that is now available.

4 PERFORMANCE OF COMPETITION LEGISLATION

4.1 The General Effect of Competition

The competition legislation provided for under the Trade Practices Act is very welcome and has made undeniable progress in moving Australian telecommunications from a position of monopoly to the situation now where substantial competition has emerged in many areas. However, some sections of the Australian community have not seen any benefit to date from competition policy and are not considered likely to benefit under the current regime in the foreseeable future. For all of the activity in the competitive provision of higher levels of service and lower prices in urban markets the rural and remote areas markets are still for all practical purposes dominated by Telstra and the same services that they suffered prior to 1997. There has been little discernible change in reliability or even access to the most basic telephony services and the enriched functions of telecommunications described above supplied to populated areas has not been passed on to the remote areas that stand to benefit from it the most.

Questions have been raised regarding the implementation and the operation of the legislation. These include: access to unconditioned local loop and local call resale, disappointment with the length of time it has taken for the intent of the ACCC's service declaration to come to fruition, the number of arbitrations with the ACCC and the difficulty of getting implementation of some of its decisions. However, the legislation itself appears to be generally considered as quite effective in areas that support adequate competition including Darwin and to a limited extent Alice Springs and Katherine. In areas where the market is too thin or less profitable, the legislation has not improved telecommunications services and holds out no promise to deliver anything in the foreseeable future.

4.2 Service Level Competition vs Infrastructure Competition

It clearly remains the case that in most geographical parts of Australia, if a person wants a telephone they will go to Telstra because Telstra possesses the infrastructure. Other carriers have not been induced to invest in physical infrastructure significantly outside of urban areas. The major infrastructure that has taken place has been in major backbone infrastructure, duplicating existing infrastructure elements that were already arguably sufficient and ignoring areas where the infrastructure is demonstrably lacking. Even in urban areas, the investment in infrastructure has taken second place to developing service enhancements based on access to the existing infrastructure made available via declarations. The question remains as to what might be the appropriate regulatory framework to encourage other carriers to do more than cherry pick those areas offering the greatest returns on investment.

A great deal of the competitive activity to date has been in rich markets at the service enhancement level. Services clearly appear to have been the primary mode of contestability over the last three years. Comments made by the carriers to the Telecommunications Service Inquiry in July 2000 would indicate a common opinion that the primary arena for competition exists in the area of service level competition as opposed to infrastructure competition. It is exceedingly worrying if carriers see the principal area for competition to be in the provision of services enhancement when some members of our community do not have access to a basic physical telephone service that is reliable and affordable. Facilities competition is leading, and may continue to lead, to inefficient duplication of sound infrastructure while failing to direct investment to areas that have little or no infrastructure.

The greatest benefits from introduced competition seems to have accrued to those people who already had sound communications who are now overwhelmed with choice between services that offer slender refinements or discounts on what they already had. Much of what passes as competition is offering extra features at the top end of a saturated market or resellers offering discounted calls and has provided no incentive to invest in infrastructure at all those areas that most need it. While this was never the intent of the legislation, this has been the practical outcome. Parts XIB and XIC should be revisited in the light of this with a view to resetting the balance between services vs facilities, particularly where there is no infrastructure to fine tune. An effective Part XIC should be able to balance the investment in service levels as opposed to physical infrastructure and the emphasis on continuing to refine high-end services as opposed to providing basic infrastructure.

Recommendation:
4.2 Review parts XIB and XIC of the Trade Practices Act with the intent of shifting the current emphasis on service enhancements to one that favours substantial investment in fundamental infrastructure in remote and very remote areas.

4.3 Supply Side Intervention vs Demand Development

Telecommunications policy to date has focussed heavily on the supply side. Its primary function is to determine what and how the industry is to supply in the national interests. The USO clearly has this as its basic purpose. With minor exceptions, the funding arising from the second sale of Telstra also has this intent, or at least effect. The Untimed Local Calls in Extended Zones project has the potential to shift incentives to invest to other carriers but is still based on a USO concept.

Effective competition must be based on demand, yet telecommunications policy continues to concentrate on the supply side. Even the Trade Practices Act and the Telecommunications Act concentrate on defining how services are to be delivered and how the supply side is to be structured.

To be successful the policy approach must find a way to empower the demand side of the industry. Aspects of the natural monopoly that existed in the supply oriented old Telecom era is replicated in the supply side focus of the current competition regime. Before the advent of the current alternative technologies such as satellite to deliver customer connections the natural monopoly based on copper line and its limitations and the difficulty of duplicating it tended to make telecommunications supply side oriented. This persists in the tendency for legislation to define the nature of services.

This needs to be considered in the light that the burgeoning customer expectation and demand for sophisticated telecommunications services in urban areas has been created largely by the industry that stood to gain by supplying it. Nothing has been done to develop demand in remote areas although these areas are the obvious potential beneficiaries of new technology. Yet, there is evidence of a strong latent demand for services in remote areas. Real needs such as access to education, access to the job market, social and economic development, access to government information and services, health, security, EFTPOS and financial services that could be satisfied by telecommunications have not yet been translated into a coherent and articulated demand. If this latent demand could be realised and developed it would generate a volume of demand sufficient to drastically shrink, if not eliminate, the areas of Australia that are now unattractively marginal or net loss areas.

The Commonwealth Government, the Northern Territory Government and Northern Territory local governments have all invested in training and other projects aimed at generating, aggregating and coordinating demand in remote areas. However, the primary vehicle for the development of this demand is the same as it has been for urban areas, that is the industry itself. Carriers must be induced to compete in this area. The market for remote area services must be recognised as a separate market with special needs and real potential for a level of demand that can be satisfied profitably. Competition legislation must provide the motivation for industry to catalyse the latent demand and to supply it profitably.

Recommendation:
4.3 Recognise the limitations of existing telecommunications competition policy to address locational problems, recognise remote area telecommunications as a separate market with unique characteristics and review Parts XIB and XIC with a view to encouraging carriers to develop the demand side of the telecommunications industry in that market.

4.4 Defining the LTIE

It is understood that the primary objective of Part XIC of the Trade Practices Act is to promote the Long-Term Interests of End-users (LTIE) by:

- promoting competition in telecommunication markets;
- achieving any-to-any connectivity in relation to carriage services that involve communication between end-users; and
- encouraging the economically efficient use of, and the economically efficient investment in, telecommunications infrastructure.

And that in determining whether terms and conditions are reasonable, the ACCC must have regard to, inter alia, whether the terms and conditions promote LTIE. The LTIE is not defined any further beyond stating that:

For the purposes of this Part, in determining whether a particular thing promotes the long-term interests of end-users of (the listed services) regard must be had to the extent to which the thing is likely to result in the achievement of the following objectives:

(i) the objective of promoting competition in markets for listed services;

(ii) the objective of achieving any-to-any connectivity in relation to carriage services that involve communication between end-users;

(iii) the objective of encouraging the economically efficient use of, and the economically efficient investment in, the infrastructure by which listed services are supplied.

These three objectives by which the LTIE is assessed may well be sufficient to secure end-user interests in areas that enjoy sound competition. They may not go far enough in cases of structural market failure that does not supply even fundamental services or fails to attract even the first carrier. The long term interests of many Australians in remote areas lie in the acquisition of any level of reasonably reliable basic telephony not in enhancements. The good intent of the LTIE has little practical implication for end-users in remote areas, less to those who would like to be end-users but are still waiting their first service. The promotion of competition when the first carrier has not yet arrived and any-to-any competition when one is not connected to anything has little meaning.

The effect of the third objective either means nothing or it may have the practical effect of excluding remote area end-users if it encourages investment assessment solely in terms of financial efficiency. The measurement of investment opportunity principally by rate of return fails to identify the underlying demand in terms of human need that belies the lack of revenue from these areas. The delivery of services in this case has more to do with being effective in delivering solutions as opposed to being financially efficient. This should always be the case where basic human needs remain unmet, or where health, security or inequity is the primary problem. This is the situation that the Northern Territory Government continues to address in remote areas of the Northern Territory. It would assist this goal if the definition of the LTIE were to be extended to embrace concepts of basic needs.

Recommendations:

4.4a Add to the LTIE objectives under Part XIC the objective of extending access to reliable, affordable, basic voice and data services to all Australians.

4.4b Where objective (iii) involves a cost:benefit analysis, consider an holistic approach that recognises the real social costs and benefits and recognises the potential savings made possible by the elimination or mitigation of isolation and barriers to participation in the wider Australian community.

4.5 Disincentives to Invest in Marginal Areas

Entry into telecommunications since 1997 has focussed on high-return areas, notably the capital cities. Some remote areas do not present a commercially viable market. However, it would appear that there is a failure or a reluctance to invest where it is still commercially viable to do so in areas outside of capital cities. The competition regime should endeavour to remove any possible obstacles to investing in marginal areas. It should certainly not be a disincentive to those wishing to invest in marginal areas.

It is recognised that the ACCC faces a complex set of conflicting interests in making a declaration decision. It must assess:

- the possible competition effects of making a declaration decision;
- whether there is a material risk that declaration may undermine the incentive to the incumbent to invest in infrastructure used to supply that service, either after declaration or in anticipation of loss of competitive advantage through a future declaration;
- the risks of insufficient investment in downstream infrastructure and a lack of competition for the services supplied by that infrastructure had the upstream services not been declared; and ...

- whether there would be inefficient duplication of infrastructure from not declaring an upstream service.

It is also understood that it is extremely difficult to determine a price that strikes an appropriate balance in terms of the build–buy decision;

- the danger that an access price that is too high may encourage uneconomic duplication of existing infrastructure or, the opposite, no competition at all; and ...
- the danger that a price that is too low may discourage the duplication of infrastructure even if it is economic to do so.

Access cost drives the choice between access-based competition and facilities-based competition. In an industry where capital expenditure is large, inappropriate signals about whether to build alternative infrastructure or to compete using access services provided by existing infrastructure can be highly detrimental.

It is understood that the ACCC believes that the access price that sends the appropriate investment signals are based on the costs that an efficient firm will incur in providing the access service. However, the Commission claims not to be wedded to a strict Total Service Long Run Incremental Cost approach for declared services and that a range of factors may need to be taken into account when assessing whether this methodology be adopted in particular circumstances.

In the case of the Northern Territory's marginal or net loss markets there are concerns that:

- **Investment in marginal markets is deterred by the prospect of future declaration or the required access under an existing declaration.** Carriers that recognise the potential of marginal markets should be given adequate protection of what might be slender profits to maintain their interest in investing in that area. It is believed that some carriers might be prepared to develop local, remote area telecommunications if they could be assured of sole access to that market for a reasonable period of time. The ACCC's concept of the incumbent's needs for the service should be extended to secure the incentive to continue to invest in that service. This protection is considered desirable in some instances to encourage the primary development of remote areas.

- **Locational problems are neglected when markets are considered on a functional and national basis.** For example: inter-carrier roaming is not currently mandated for any mobile services presumably because the robustness of the mobile market taken as a whole indicates that this is not warranted or would be counterproductive. This only holds true when considered at a national level and assumes that demand is uniformly dense enough to accommodate duplication of infrastructure. Problems such as poor mobile coverage of remote highways are a locational problem not necessarily amenable to duplication and therefore may warrant a different approach. Voluntary inter-carrier agreements are rare and are not expected to become common for as long as the primary basis for competitive advantage remains infrastructure. Duplication of infrastructure is always going to be inefficient in some of these areas. The commercial advantage of being the incumbent carrier on a remote highway is moderated by the fact that it represents an extended service to existing customers rather than the embracing of a new set of customers now included by the coverage. There is therefore little entrepreneurial advantage that might require protection and everything to gain by all those who use the highway.

All of these concerns might be addressed by promoting the geographic dimension of the relevant markets considered by the ACCC for the purposes of telecommunications competition policy. The discussion on relevant market definition in the ACCC's July 1999 report *Declaration of Local Telecommunications Services* defines markets for consideration primarily as functional markets. Under a discussion of the geographic dimension in section 4.4 *Which markets are relevant?* it argues that...

The demand for the unconditioned local loop service in central business districts, inner city and suburban areas, and in regional (country) town locations suggests that the market should be treated as a national market. On the other hand, roll-out of additional customer access infrastructure by new entrants and existing players in particular locations (notably central business district areas) suggest that the features affecting competition in these locations are different from those in other areas. There is a risk that these features may be overlooked if the market were treated as national. The Commission did not, however, consider the extent of roll-out to be of sufficient scale to warrant identification of separate geographic markets at this stage.

The emphasis on the functional aspect of the markets ignores locational problems that cut across functional markets. The conditions in remote areas are sufficiently different from the rest of the telecommunications environment to warrant the consideration of a separate market defined primarily on geographical or locational aspects. The additional market for primary consideration by the ACCC should cover areas of Australia characterised by the following:

- all areas that are logistically difficult or expensive to service or suffer from some other barrier to service provision that;
- currently lack adequate infrastructure capable of providing reliable, basic telecommunications services and are...
- marginal or potentially loss making areas but which...

- contain people having unmet telecommunications needs for reliable, affordable voice and data services for access to education, access to the job market, social and economic development, access to government services, health, security, banking and financial services regardless of whether
- that demand is latent or has been developed, aggregated and coherently articulated.

Recommendations:

4.5a When considering the effects of regulation on thin areas of the market, the need to encourage competition must be carefully balanced against the danger of disincentives to invest by threatening anticipated returns on investment or by introducing uncertainties regarding the future regulatory environment.

4.5b Wind back regulation in areas where adequate competition has become firmly entrenched.

4.5c Consider new areas for regulation as new services or social needs for services emerge that require either protection from competition or the encouragement of competition.

4.5d In addition to the functional markets already considered, remote area telecommunications should be considered as a separate market with special needs for the purposes of telecommunications competition policy.

4.6 Maintaining the Relevance of Legislation

It is recognised that the legislation allows for the revocation of declarations and provides exemptions from access obligations. This reflects the intention that the access regime operates with a high degree of flexibility in recognition of the need to reduce the risk of unnecessary or over-arching regulation. It is also recognised that there are provisions for review of which this Inquiry is one.

However, telecommunications technology is developing extremely fast. Convergence of functions previously considered separate, the developing role of the internet, massive mobile telephone growth and an unprecedented expansion of public expectations continue to create a volatile environment. Significant changes may occur within the period of review of competition legislation or the life of the current declarations. There is a real danger of regulating on the assumption of a particular service regime when the immediate future of that regime is not known. The revocation power is intended to ensure that declarations remain relevant and effective so that the need for declaration can be reassessed as market conditions change. The timing of reassessment may not be adequate to cope with the pace of change that may arise from technical developments, the forthcoming changes to the Universal Service Obligation and the Regional Universal Service Provider.

Consideration should be given to a more regular review at shorter periods. A major review could be usefully undertaken annually. It may be beneficial to have a minor review every six months that identifies key changes in the telecommunications environment that might signal a closer look at some aspect of the legislation.

The current legislation also operates prescriptively in that it defines how goals are to be achieved rather than describing the desirable outcome. This not only runs the risk of obsolescence as the telecommunications environment evolves but pre-empts industry innovation that might have offered alternative solutions and shifts. The encouragement of innovation is expected to provide incentive. It may be of benefit to consider how the legislation might be recast to describe desirable outcomes. Routine operations can be simplified by the use of deemed-to-comply solutions that are updated as they emerge and receive approval but which do not restrict innovation.

Recommendations:
4.6a Review competition regulation and the declarations at shorter periods than is currently the case.
4.6b Consider the scope for performance based legislation with deemed-to-comply solutions.

4.7 Global Competition Exemptions

There is a growing trend towards more liberalised telecommunications markets overseas. There appears to be a convergence of national telecommunications competition regimes and it is understood that Australia's competition regime is reasonably compatible with models emerging in the UK and North America. Multilateral trade frameworks are being established that include telecommunications, in particular through the WTO since the inclusion of telecommunications in the 1994 Uruguay round and subsequent events. Australia's WTO negotiations in other areas such as the Government Procurement Agreement have sought to reserve aspects of those agreements for local jurisdiction. It is not known to what extent this has been developed for telecommunications agreements. However, there is a need to develop the framework to pre-empt international moves, not only to keep the industry competitive internationally but also to protect Australian interests such as remote or Aboriginal development. There is a need now to identify areas of real or potential market failure, or where there are significant social, cultural or local development issues at risk with a view to exempting or otherwise protecting them under future international telecommunications agreements.

Recommendation:
4.7 Consider the effect of globalisation on the future Australian competition regime with a view to pre-emptive action to exempt or otherwise protect certain market sectors for the purposes of protecting indigenous Australians and those who live in remote areas who do not have access to basic telecommunications services.

5 PRINCIPAL RECOMMENDATIONS

4.2	Review parts XIB and XIC of the Trade Practices Act with the intent of shifting the current emphasis on service enhancements to one that favours substantial investment in fundamental infrastructure in remote and very remote areas.
4.3	Recognise the limitations of existing telecommunications competition policy to address locational problems, recognise remote area telecommunications as a separate market with unique characteristics and review Parts XIB and XIC with a view to encouraging carriers to develop the demand side of the telecommunications industry in that market.
4.4a	Add to the LTIE objectives under Part XIC the objective of extending access to reliable, affordable, basic voice and data services to all Australians.
4.4b	Where objective (iii) involves a cost:benefit analysis, consider an holistic approach that recognises the real social costs and benefits and recognises the potential savings made possible by the elimination or mitigation of isolation and barriers to participation in the wider Australian community.
4.5a	When considering the effects of regulation on thin areas of the market, the need to encourage competition must be carefully balanced against the danger of disincentives to invest by threatening anticipated returns on investment or by introducing uncertainties regarding the future regulatory environment.
4.5b	Wind back regulation in areas where adequate competition has become firmly entrenched.
4.5c	Consider new areas for regulation as new services or social needs for services emerge that require either protection from competition or the encouragement of competition.
4.5d	In addition to the functional markets already considered, remote area telecommunications should be considered as a separate market with special needs for the purposes of telecommunications competition policy.
4.6a	Review competition regulation and the declarations at shorter periods than is currently the case.
4.6b	Consider the scope for performance based legislation with deemed-to-comply solutions.
4.7	Consider the effect of globalisation on the future Australian competition regime with a view to pre-emptive action to exempt or otherwise protect certain market sectors for the purposes of protecting indigenous Australians and those who live in remote areas who do not have access to basic telecommunications services.