

**Submission to the Productivity Commission
Review of Telecommunications
Specific Competition
Regulation**

**Ericsson Australia
31 July 2000**

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Introduction

1. Ericsson Australia welcomes the opportunity of making a contribution to the Productivity Commission's review of Telecommunications Specific Regulation.
2. Ericsson operates in over 140 countries, has a global turnover in excess of A\$36 billion and employs over 100,000 people. Global expenditure on research and development exceeds 16% of turnover.
3. Ericsson Australia has been a major investor in Australia over the past fifty years. Company turnover is in excess of A\$1 billion per annum and employment exceeds 2,000 including 500 scientists and engineers.
4. Major product lines include switching equipment, GSM networks, mobile handsets and, increasingly, IT services. In Australia the majority of telephone calls, either fixed or mobile, are carried over Ericsson equipment.
5. Ericsson supplies over 40% of the world's mobile telecommunications networks. Within Australia, Ericsson supplies mobile network infrastructure (GSM) to both Telstra and Vodafone as well as handsets to all carriers.
6. Through its Design Centre co-located at Broadmeadows and the 42nd Precinct at Melbourne Central, Ericsson is Australia's largest private sector research and design organisation. Major international R&D projects include mobile applications, optimisation of network resources, Voice Over Internet Protocol (VOIP) and optical communications.
7. Ericsson Australia is also a leading participant in collaborative research through its membership of the Photonics Co-operative Research Centre (CRC) and the Australian Telecommunications CRC, as well as through its partnerships with education and research institutions such as the University of Melbourne, the University of Sydney and the Royal Melbourne Institute of Technology (RMIT) University.
8. Future investment by Ericsson in Australia will be into advanced applications based on the convergence of mobility and the Internet, where Australia is well placed as an advanced user in both fields to develop new applications for the global market. Maximising these opportunities for Australia will, in turn, depend on emerging wireless services such as Wireless Application Protocol (WAP) and 3G (3rd generation mobile) having timely access to spectrum.
9. Given this range of experience in over 140 countries, some of which have already liberalised or are in the process of liberalising their telecommunications regulations, Ericsson is in a unique position to comment on whether Parts XIB and XIC of the Trade Practices Act 1974 and related provisions of the

Telecommunications Act 1997 should continue to apply to Australia's telecommunications industry.

Background

10. After six years of limited competition, the Telecommunications Act 1997 and the Trade Practices Amendment (Telecommunications) Act 1997 ushered in a new era of open competition for Australia's telecommunications industry on 1 July 1997.
11. The key features of the 1997 legislation were:
 - a) open entry for carriers with minimal licence requirements other than to provide access to specified services;
 - b) open entry for providers of carriage and content services using infrastructure owned by other carriers;
 - c) a new access framework, creating standard access obligations for carriers and service providers in relation to declared services and access rights to those services for carriers and carriage service providers; and
 - d) extension of State and Territory environmental and planning laws to the telecommunications industry.
12. Most industry analysts look for the presences of three elements in determining how truly competitive a market is:
 - a) effective regulatory regime;
 - b) operators who want to compete; and
 - c) consumers demanding better value and more competitive services.
13. After three years of operation the current regulatory regime has created a robust competitive environment in Australia's telecommunications industry with an increasing number of licensed operators offering competitive services. Prices continue to fall and the range of services being offered to residential and business users continues to rise and shows no sign of tapering off.
14. While the vigour and long-term robustness of competition in the Australian fixed line telecommunications market may still be open to some debate there is a general consensus within the Australian telecommunications industry that competition in the mobile sector is already vigorous and robust. Recent research by Vodafone, reviewed by KPMG, showed that there had been a significant fall in Australia in the price of mobile access and handset costs since 1993 and, in particular, some mobile phone services are now cheaper than the equivalent service offered over fixed lines.

15. Ericsson Australia therefore considers that the current regulatory regime has provided a solid regulatory framework for the continuing evolution and development of competition in the Australian telecommunications market with the most spectacular results being achieved in the mobile sector.
16. Given the evidence of significant competition within the Australian mobile industry, Ericsson Australia considers that there is no further need for continuing industry specific regulation in the mobile market. Ericsson Australia considers that continuing to apply industry specific regulation would be counter-productive as the policing of the regulation is both expensive and resource consuming for the Australian Competition and Consumer Commission (ACCC) and the industry.
17. Moreover, in a truly competitive market the regulation could only, at best, second- guess market behaviour and dynamics. Unfortunately, a more likely outcome would be the diversion of resources within the marketplace to regulatory compliance activity impeding the continuing development of new customer responsive services.
18. As a result, Ericsson Australia considers that there is sufficient ground for the Productivity Commission to recommend the repeal of Parts XIB and XIC of the Trade Practices Act 1974 in so far as mobile telecommunications are concerned. The Commission should also continue to monitor the application of Parts XIB and XIC with respect to fixed line services with a view to determining the timing of any future recommendation to Government to repeal.

Discussion

19. Three years out from the introduction of full liberalisation in the Australian telecommunications market the indicators are positive that competition is well and truly established. With expanded investment and employment in the telecommunications sector there is now a greater choice of telecommunications services, lower prices, greatly improved customer focus and quality of service. These benefits have flowed to business and residential consumers alike.
20. Mobile networks have provided a means to enter the telecommunications market at a relatively lower cost than building a fixed line network. As a result, competition in the mobile sector of the Australian telecommunications market has been, and continues to be, the most keen. Mobile operators have had to continually seek new market segments in the face of ever increasing competition, falling tariffs and prices and the introduction of new technologies. This, in turn, has made mobile services increasingly substitutable for fixed line services.
21. Successful mobile operators have had to continually seek to identify new market segments and new opportunities to encroach on the traditional fixed line market. For example, five major market segments have come to be increasingly identified with the mobile sector:

- a) different approaches to the voice markets in terms of attracting new subscribers and in the provision of new services to existing subscribers;
 - b) attacking the non-voice markets where the market has yet to reach any substantial subscriber base;
 - c) offering integrated services (eg. voice / non-voice, mobile / cordless);
 - d) enhancing basic telephony for consumers with services such as voice-messaging; and
 - e) new approaches in distribution to reach the mass market (eg. pre-paid services).
22. The use of pre-paid schemes and the judicious use of consumer tariffing has made mobile telephony a true substitute for fixed line telephony resulting in a rapid growth in demand by individuals for mobile phones for personal use rather than for business purposes.
 23. The increased competitive nature of the market is reflected in the greater choice of service providers available to the public at large. This growth shows no sign of abatement with increased competition leading to an ever increasing number of new telephone companies, Internet service providers and on-line content suppliers.
 24. Since July 1997, new carrier licences have continued to be issued as new operators seek to win customers. Moreover, the fixed basic network has been supplemented by the deployment of extensive mobile telephony infrastructure as the distinction between mobile and fixed telephony blurs and mobile communications becomes truly substitutable for fixed services.
 25. The regulatory regime introduced in July 1997 has proven most successful in relation to the development and implementation of technical codes and standards and the development of operational codes of conduct. Formal regulations have remained and in some cases have been strengthened, in relation to consumer safeguards and competitive issues like interconnection. Similarly, the ACCC's role has grown since July 1997 with a range of inquiry activities, service declarations and anti-competitive conduct cases.
 26. All of this has been necessary before any consideration could be given to more closely aligning regulation of the telecommunications market to regulation of the general economy. The necessity has arisen because of the pivotal role that Telstra has held in the Australian telecommunications industry, particularly in the areas of domestic fixed line phone services and access and interconnection to the copper wire network.
 27. In recognition of Telstra's pivotal role, successive governments have introduced a range of telecommunications industry specific regulations, which have then been progressively removed as long-term sustainable competition has been established. Throughout this process which began with the passage of the

Telecommunications Act 1991, successive governments have aspired to eventually establishing a competitive situation in the Australian telecommunications market where the competition rules for telecommunications could be aligned with general trade practices law.

28. Ericsson Australia considers that, while there still may be some legitimate debate as to whether the nature of competition in the Australian fixed line telecommunications market is now such that general trade practices law only should apply, the competitive situation in the Australian mobile telecommunications market requires this next evolutionary step in Australian telecommunications reform to be taken now.
29. The Australian Financial Review (AFR) of Thursday 13 July 2000 reported that unprecedented competition in Australia's mobile phone market has seen Telstra lose crucial market share to established players and new entrants.

Figure 1: Market Share – Australian Mobile Phone Market Q1 and Q2 2000

	Q1 %	Q2 %
Telstra	48.9	48.2
Cable and Wireless Optus	33.0	33.4
Vodafone	18.2	18.3
Other	na	<0.2

a) Source: AFR 13 July 2000

30. The same article reported that in the three months to 30 June 2000, a total of 587,000 new customers signed up for mobile services with 228,000 going to Telstra, 222,000 going to CWO and 124,000 going to Vodafone. Penetration now stands at 47% and is expected to reach 50% soon.
31. With Orange, OneTel and AAPT starting operations, competition in the Australian mobile phone market is intensifying stimulating further consumer interest. Ericsson's global experience is that three or more players in the market leads to significant price competition and differentiation on the basis of services and that a market of 6 players results in significant price and service competition.
32. Competition will be further enhanced by the introduction of mobile number portability. International experience indicates that the introduction of mobile number portability further enhances price competition.
33. Furthermore, The introduction of WAP and the evolution of 3rd generation services will lead to new ways of doing business via mobile phones and is more likely to encourage additional competition.

34. 3rd generation services will utilise convergence of high speed mobile access with Internet Protocol (IP) based services and are expected to transform the way we communicate, undertake business and access information.
35. This technological evolution will mean that mobility will be built into many services that are currently regarded as “fixed” with mobility increasingly becoming the norm for many communications services.
36. 3rd generation mobile services will mean that mobile services will be delivered with better performance and greater cost effectiveness while at the same time facilitating new services with more comprehensive content. User access of up to 2 Mbits/s will be able to be provided. This is about 40 times higher than currently available. This higher throughput will allow services such as high-quality video to be transmitted over the air.
37. Ericsson Australia considers that the Productivity Commission needs to be cognisant of these technology developments and their implication for the competitive delivery of services in its deliberations on whether to continue applying telecommunications specific elements of trade practices legislation to the Australian mobile phone market.
38. The mobile sector of the Australian telecommunications market is the most competitive segment of the market. Moreover, technological development in train now will transform the way Australian use communications services by increasing access to all manner of services traditionally only accessible over fixed lines.
39. Ericsson Australia therefore considers it is no longer necessary or cost-effective to continue applying telecommunications specific regulations to this market segment. Indeed, its continued application may act to impede or stifle some of the mooted technological developments to the cost of the Australian economy as a whole.
40. Ericsson’s position is consistent with that taken by the ACCC. The ACCC Commissioner with prime responsibility for telecommunications, Mr Rod Shogren, was recently quoted in Communications World [2000-08-13] as saying “We’ve got to be careful that we’re regulating only the areas that need to be regulated, not the areas where competition has already developed....we’ve got to be able to get out of areas as we go along.”

Conclusion

41. Based on the strength of its international experience, Ericsson considers that the mobile segment of the Australian telecommunications market is already highly competitive. Furthermore, technological developments over the next year or so

will further increase its competitiveness to the point where mobile services will truly be substitutable for fixed services.

42. As a result, Ericsson Australia considers that there is sufficient ground for the Productivity Commission to recommend the repeal of Parts XIB and XIC of the Trade Practices Act 1974 in so far as mobile telecommunications are concerned.