



# The Carriers And Land Access

**In recent months, stories in the media about 30m mobile phone towers erected by carriers overnight, without consultation, on people's property have drawn attention to an issue which is likely to become increasingly controversial: land access.**

At a Telecommunications Industry Ombudsman (TIO) consumer forum in Sydney in late July, deputy ombudsman Sue Harlow said that although land access represents only small proportion of complaints to the TIO to date, the office is watching it closely as an emerging issue. An AUSTEL spokesperson told *CU* that the regulator is also beginning to receive complaints.

The growing controversy over land access has been generated by the activities of Telecom and Optus as they continue to install their infrastructure for pay TV and to expand their mobile communications networks. The third carrier, the mobile operator Vodaphone, is attempting to confine its equipment to buildings rather than erecting new towers.

So far, developments like the erection of mobile towers have been more apparent in metropolitan areas, but country areas are also affected by infrastructure activities. Sue Harlow told the TIO forum of a case where a carrier installed cable over a creek running through a rural property, diverting the creek in the process to softer pasture area and causing the farmer's cattle to become bogged when seeking water.

Related issues which have been raised in connection with the establishment of cellular telephone base transceiver stations concern electromagnetic emissions and possible health effects from radiofrequency emissions.

## Carriers Largely Exempt

Under the Telecommunications Act, carriers are largely exempt from local, state and federal requirements for environmental protection. They have broad powers to enter property. In return, they are expected to comply with a Telecommunications National Code.

They are also expected to comply with a land access code, though such a code is still being developed within the Department of Communications and the Arts. *CU* was told that it would be ready for tabling at the end of August.

An AUSTEL-developed draft Telecommunications National Code has been in operation since 1991. The regulator conducted a public inquiry as well as seeking comments on the code - unfortunately, in hindsight, before land access had really become a significant public issue.

Criticising the draft code, Opposition Communications spokesman Senator Richard Alston said that the carriers only had to consult when they consider their constructions significant - in other words, they had complete discretion as to whether they would consult with state, territory or local authorities.

The final code was gazetted in June this year. At the time, the Minister said that the findings of AUSTEL's public inquiry into the draft code were taken into account in developing the code, and that the carriers would now be subject to more stringent requirements, including closer consultation with local councils, relevant authorities and the Australian Heritage Commission on matters like the location of mobile towers.

On the question of emissions and health effects, AUSTEL points out that carriers are liable to severe penalties if they do not comply with relevant industry standards as required by the Code. In the Australian Standard, the limits for general public exposure in the frequency range of cellular phone operation are set more than one hundred times lower than the threshold at which any adverse effect could occur.

There remain concerns that the Code does not go far enough, and that the carriers may still be able to exercise a significant degree of discretion. Senator Alston said that a carrier must notify the Department of Environment Sport and Territories only if *the carrier itself* is of the opinion that an activity is likely to result in significant community concern, and considers that the effect of the activity is likely to be significant. He also said that the Code still gave no guarantee that the views of residents affected by telecommunications infrastructure work would be taken into account.

Local government is clearly unconvinced by the Code: the NSW Local Government Association has set up a standing committee to deal with urban planning issues raised by telecommunications infrastructure developments. The committee will develop guidelines which can be used by local councils around Australia. □

*They say you can hear the sea if you hold it to your ear and dial 1.*

