Telstra privatisation: the CLC's view

***Sue Ferguson** summarises the Communication Law Centre's submission to the Senate Telstra Inquiry*

The Senate Environment, Recreation, Communications and the Arts References Committee is currently inquiring into the Government's Telstra (Dilution of Public Ownership) Bill 1996. The following is a summary of the Centre's submission to the Senate Inquiry.

The Centre does not support the partial privatisation of Telstra. It is not convinced that, on the basis of both domestic and international studies of privatisation (especially in the telecommunications industry), the assumed benefits to the public of privatisation have been unequivocally demonstrated in relation to a range of issues.

International studies

While much research has been conducted around the world regarding consumers and privatisation, some studies heavily relied upon in support of privatisation are not necessarily relevant to the particular features of the telecommunications industry in Australia, relying instead on a vast range of industries in a vast range of quite diverse countries. One such study was conducted by the World Bank of around 6,800 privatisations of state-owned enterprises (SOEs) since 1980. This study falls a long way short of a ringing endorsement of the arguments being mounted in favour of the privatisation of Telstra. In fact, the study highlights the importance of factors other than ownership in achieving sound policy outcomes and acknowledges its own limitations as a guide to policy making.

Of the 6,800 privatisations of SOEs, 4,500 (66%) occurred in the former East Germany in the eighteen months before the report was written; 6,100 (90%) occurred in Eastern Europe, Latin America and the Caribbean. Just 170 (12%) occurred in OECD countries. The overwhelming majority of the cases occur in countries undergoing complete revolutions in the way their economies and societies are organised. This evidence is of questionable relevance to the particular case of Australia, with its highly developed telecommunications and general civil infrastructure.

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The World Bank study also highlights the importance of specific regulatory measures in ensuring that the interests of consumers are protected. It notes that in the United Kingdom, factors such as increased competition and technological change also played a role in improving the aggregate position of telecommunications consumers during the privatisation of British Telecom.

In its detailed study of the welfare consequences of the privatisation of twelve firms in Chile, Malaysia, Mexico and the UK, the study found that consumers were left either unaffected or were considerably better off in all but five cases. That is, in at least six cases (that is, half the firms surveyed), consumers were either left unaffected or were worse off.

Efficiency

In contrast to the World Bank study, extensive research of privatisation has been undertaken by Allan Brown of Griffith University, who has examined a series of studies conducted over a number of years by various authors. Brown concludes that, while evidence suggests that private firms generally outperform public firms in competitive markets, in telecommunications there is no apparent association between the type of ownership and economic performance.

There is little dispute that Telstra trails world's best practice in significant areas of its performance. However, many contest that the disciplines, incentives and freedoms of partial privatisation are sufficient to accelerate the achievement of efficiency gains.

Telstra does not need private sector participation and marketplace scrutiny to make it more accountable

The Centre submits that further efficiency gains and improvements can continue to be achieved by Telstra under both its current ownership structure and the disciplines of an even more competitive market, to come into effect from 1 July 1997. Improvements to date in Telstra's performance in an environment of limited competition have been significant. It is likely that, with increased competition in the market and clear strategic decision making, Telstra can continue to improve.

Accountability

The Government, as sole shareholder, is presently in a position to exercise its authority and to seek board performance and excellence. Telstra does not need private sector participation and marketplace scrutiny to make it more accountable. Parliament and the Minister are already able to seek additional information from Telstra's board in relation to its performance. Processes such as the Senate Estimates Committees provide a means of accountability to Telstra's shareholders.

Decision making

Clarity in strategic decision making does not flow automatically from private ownership of a company. Privatisation will not rid the Government of any conflicts of interests it may have in Telstra's strategic decision making. In fact, partial privatisation is likely to result in particularly complex sets of objectives and priorities being put on the table before the two-thirds government shareholder and the one-third minority private interests.

Budgetary implications

In the March 1996 issue of *Communications Update*, Trefor Jones considered the benefits and costs of any privatisation on Telstra and its effect on the Commonwealth's budgetary position. While recognising the limitations of his review Jones concludes that there is not necessarily an implication that Australia, as a whole, would be worse off as a result of privatisation. However, it undercuts the common perception that privatisation, of itself, would improve the Commonwealth's budgetary position. In fact, privatisation will need to lead to considerable efficiency improvements to offset its negative impact on the budget.

Timing of privatisation and regulatory reform

The Centre is concerned that the privatisation process will compromise the regulatory reform process (now less than a year away), and that uncertainty about the regulatory reform process will compromise the sale price in any privatisation. The Centre believes it is essential that the regulatory reform process receives priority over the privatisation process. All energies should be directed at ensuring the development and implementation of a clear, cohesive and competitive telecommunications environment for the industry and the public alike.

The telecommunications industry should first bear and manage the impact of significant regulatory and legislative change in a more competitive market before privatisation of any nature or degree is contemplated. To do otherwise is to risk compromising the sale price of Telstra and the return to taxpayers.

Australian-ness

Through the processes of competition and regulatory reform, Telstra has been transformed significantly since the early 1990s and Australia is now reaping the benefits of decisions made in the late 1980s regarding competition in telecommunications and Telstra's development into a world-class carrier.

Foreign investment in Telstra will lead to the transfer of wealth offshore and the development of investor focus that is not in Australia's national interests. Further, foreign investment in Australia's telecommunications industry is adequately provided for by deregulation of the telecommunications industry and the increased opportunities it provides for international telcos and service providers.

The Government has provided for strict foreign ownership limits in the proposed sale of Telstra. As a result, the premises on which privatisation is generally argued (the need for foreign funds and expertise) is not relevant to Telstra's case.

Consumer protection

The Centre is concerned that the Government's desire and/or need to maximise Telstra's sale price will place pressure on, and potentially compromise, those aspects of the legislative package that are designed to ensure the best possible outcomes for the public. There are no guarantees that competition itself is a good thing for the public without legislating adequate safeguards relating to service provision, quality, price, access and equity.

In Australia, the introduction of consumer protections in the Bill, such as the Customer Service Guarantee scheme, is a significant new initiative by Government. It is also quite a clear concession by Government of the risk of decline in service quality arising from privatisation.

Conclusion

The Senate Committee's inquiry provides a good opportunity for review of such studies, and for further serious thought to be given to consumer issues in a deregulated market place. Australia needs not only a world class environment for the telecommunications industry but also a world class environment for consumers of telecommunications services.❑