



Promising basis for competition

by Andrew Bailey, Director, Corporate & Regulatory Affairs, Optus

Optus welcomes the Government's policy statement which outlines principles which will govern the telecommunications market from 1997. Optus believes that the framework represents a promising basis for the continued development of sustainable competition in telecommunications.

The details of the new regime, many of which remain to be clarified, will indicate how the new principles will work in practice. Optus' experience over the last few years suggests that effective safeguards in respect of anti-competitive behaviour will require particular attention.

In respect of pricing behaviour, the ACCC will need significant powers to limit scope for behaviour which could adversely impact on the ability of new entrants to compete.

These issues have recently been getting attention in the UK. There, reform proposals enhance OFTEL's ability to police anti-competitive behaviour and ensure fair play amongst competitors. OFTEL is proposing to place a new condition in British Telecom's licence aimed at the "maintenance of effective competition" and prohibiting behaviour which is likely to have the effect of unfairly preventing, restricting or distorting competition. This proposal recognises that as the complexity of the competitive environment increases and the forms of potentially anti-competitive behaviour grows, the regulator needs to be able to react both quickly and consistently.

Optus is concerned that the ACCC

similarly be able to respond quickly and flexibly to allegations of anti-competitive conduct. This poses some difficult issues for the Government. The *Trade Practices Act* has proven to be somewhat unwieldy for quickly preventing anti-competitive conduct. Something more will thus be needed to give effect to the Government's intention of controlling anti-competitive carrier conduct (clause 24 in the Telecommunications Policy Principles).

Interconnect will continue to be a critical issue in the post-1997 environment. The Telecommunications Policy Principles may be read to imply some diminished regulatory distinction between carriers and service providers. Here again the Government will need to find the right balance between broadening out competition and ensuring that those underpinning the widespread delivery of competition to all Australians through infrastructure investment have the opportunity to earn adequate returns on their network investments.

Australia's interconnection regime has been widely seen as "world's best practice" in dealing with the problems which arise when an incumbent monopolist is required to connect the network of a new entrant. A prime feature of this regime has been the Ministerial Pricing Principles which have guided AUSTEL's arbitration role in the commercial negotiations between Optus and Telstra. Optus believes these pricing principles have continued relevance in a post-1997 regime as the ACCC picks up the administration of the access regime. □

More players, more choice

by Allan Horsley,
Executive Director, Australian
Telecommunications Users Group

The policy framework for an open competitive marketplace in the communications industry is now a reality.

Its purpose is to bring into the industry a greater number of players, provide an environment for fair and open competition and offer a wider range of choice to users in the form of products and services at substantially lower tariffs.

A new industry management arrangement operating in accordance with Australian national competition goals, within the Trade Practices Act (to be enhanced) and under the control of the Australian Competition and Consumer Commission (ACCC), is a key feature.

A characteristic of this arrangement is the requirement of the industry itself to play a major role in the development of codes of practice which will provide a basis for each carrier to prepare and lodge formal undertakings with the ACCC, a process which will operate through a new Telecommunications Access Forum.

The challenge for us all is to actively participate in this process and bring about an industry with an ethos appropriate to the Australian environment and with a proper and equitable balance between the supply and demand sides of the industry.

The competitive environment for the post '97 communications industry will ensure fair and open competition between a wide range of providers - large and small.

Anti-competitive conduct will not be tolerated and new powers given to the ACCC will provide for any player with substantial market power