



AUSTRALIAN LOCAL
GOVERNMENT ASSOCIATION

The Manager
Universal Access Section
Networks Regulation Branch
Department of Broadband Communications and the Digital Economy
Via email to consumersafeguardsreform@dbcde.gov.au

9 September 2011

Dear Sir/Madam

The Australian Local Government Association (ALGA) appreciates the opportunity to make a submission to the draft regulations relating to public payphones made under the *Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Act 2010*.

ALGA has consulted with its state and territory associations in preparing this submission. Comments in this paper should be read in conjunction with submissions made by state and territory associations and councils.

Should you require any further information in relation to the matters raised in this submission, please contact Ms Monica Telesny on telephone (02) 6122 9433 or email monica.telesny@alga.asn.au.

Yours sincerely

A handwritten signature in blue ink, reading "Adrian Beresford-Wylie".

Adrian Beresford-Wylie
Chief Executive

ALGA SUBMISSION TO CONSULTATION PAPER ON PAYPHONES, SEPTEMBER 2011

This submission responds to the invitation of the Minister for Broadband, Communications and the Digital Economy to respond to the consultation draft on the proposed legislative amendments to the location, repair and removal of payphones made under the *Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Act 2010*.

This submission has been prepared by the Australian Local Government Association (ALGA). ALGA is the national voice of Australia's 560 local councils. Its membership is comprised of the state and territory local government associations across the country, with the Government of the ACT being a direct member of ALGA, reflecting its unique combination of municipal and territory functions. ALGA's submission should be read in conjunction with submissions from state and territory associations and from individual councils.

There has been a long history of community concern over the removal of payphones. In 2007 a motion by the City of Kingston, Victoria was passed by the National General Assembly of Local Government encapsulating community sentiment at the time:

Resolution 30: City of Kingston, Victoria

In order to enhance the role of local government in protecting public health the National General Assembly call on the Federal Government to implement a national moratorium on the removal of payphones in local communities until telecommunications companies engage in meaningful consultation.

ALGA subsequently wrote to the Minister for Broadband, Communications and the Digital Economy, Senator the Hon. Stephen Conroy, concerning this resolution and inviting his comments. The Minister indicated that he did not propose to have a 'moratorium' on the removal of these phones, but that there was a process that Telstra must undergo before removing pay phones and that this includes consulting with local communities.

Despite the increase in mobile phone coverage and the increased ownership of mobile phones, ALGA notes the importance to local communities of payphones, and the need to follow due consultation processes when the universal service provider is proposing their removal. Transparency of decision-making is also critical, especially where the payphone is the only one at a particular site.

The 2003 Payphone Policy Review by the Australian Communications Authority (ACA), identified groups of people in Australia who have a clear social need for access to payphones, rather than mere convenience alone. These people included: people making emergency calls (high need); people without access to a home phone (high need); people in rural and remote Australia (high need); and young people and those on low incomes (medium need). Unreliable mobile phone coverage in rural and remote areas, the continued existence of disadvantaged sections of the community who do not own their own phone and the need to make emergency calls, mean that payphones remain an essential and valued service among these groups.

Since ALGA's submission to the Regional Telecommunications Independent Review Committee in 2008, the Australian Communications and Media Authority (which replaced the ACA) has reported that the number of Telstra-operated payphones has steadily declined. ACMA's *Communications*

Report 2005-06 estimated around 55,000 payphones across Australia. As at June 2007, it estimated around 25,000 payphones were operated by Telstra, which dropped to around 19,000 by June 2010 (*ACMA Communications Report 2009-10*). It cites an 8.1 per cent reduction during 2009-10.

As the industry transitions to a National Broadband Network, the Government has announced the creation of a new regulatory, funding and institutional framework to deliver universal service outcomes, including a new entity the Telecommunications Universal Service Management Agency (TUSMA). TUSMA and the new arrangements will come into operation on 1 July 2012

Under the new arrangements, Telstra, as the primary universal service provider, will continue to be required to meet the Universal Service Obligation (USO) in relation to payphones. However, the Government intends that the payphone USO regulatory obligation will cease to apply to Telstra in all areas of Australia from 1 July 2014. ALGA further understands that removal of Telstra's regulatory obligations is based on key preconditions, including Telstra's record of compliance with its USO and its contract with TUSMA. Once those direct regulatory obligations are removed, Telstra will continue to be required to provide payphones to Australians under a contract with TUSMA.

Under the Universal Service Obligation, one of TUSMA's responsibilities will be to ensure that payphones are reasonably accessible to all Australians. Telstra's payphone obligations will be enforced by ACMA under the infringement regime introduced in 2010. ALGA's understanding is that the new arrangements will reinforce what is already in the existing Standard Marketing Plan (SMP), but make Telstra's requirements and obligations clearer and unambiguous as well as provides penalties for infringement.

ALGA fully supports the intent of the draft regulations, firstly, to ensure Telstra meets its USO, and secondly, to impose stronger standards and benchmarks for Telstra on the provision of public payphones, namely:

- clear requirements for the locations of payphones;
- timeframes to be met when repairing payphones;
- criteria that must be applied before Telstra can remove a payphone, with additional rights of review by ACMA;
- new consultation requirements by Telstra when it installs or removes a payphone; and
- clearly stated rights and processes for people to make complaints about proposed payphone installation or removal.

In the past, consultation processes regarding payphone installations and removals have received considerable criticism, particularly in rural and regional areas. The Regional Telecommunications Independent Review Committee's report in 2008 concluded that consultation with regional communities required improvement. Clear criteria and greater transparency for the public will facilitate an enhanced and accountable consultation process. There will also be greater clarity surrounding the safeguards available to consumers.

The proposed arrangements clearly set out the processes that Telstra is required to follow and the avenues of input and appeal by the consumer. Maximum times to install payphones and to rectify faults are clearly specified, as are minimum performance benchmarks (after an initial 6 month transition period).

Five exposure drafts relate to the proposed new arrangements, which will amend Part 4 of the *Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Act 2010*.

In conclusion, ALGA is pleased that many of the concerns which local government has expressed in the past have been taken into consideration in framing the new regulations. ALGA encourages a transparent review of the new arrangements, which assesses Telstra's compliance with the USO from July 2012-July 2014, prior to the cessation of Telstra's regulatory obligations, so that any modifications can be made by the Minister prior to Telstra's contract with TUSMA commencing in July 2014.

ALGA

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