

21 October 2009

Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2009

Second Reading

Mr BRADBURY (Lindsay) (6.30pm) — I rise to speak in support of the Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2009. This is a very significant bill for the House because the measures contained within it are some of the most important measures that will be passed by this parliament. I am confident they will be passed and that is because when each and every member of this parliament—whether it be in this place or in the Senate—reflects upon their duty to the people that have elected them to this place they will come to the inescapable conclusion that these measures are the right measures to embark upon.

It has been a very unsatisfactory regulatory arrangement that we have had in place in the telecommunications sector in this country, for many years. That has been widely acknowledged.

Mr Briggs —Set up by Kim Beazley!

Mr BRADBURY —I take the member's interjection. It has been a series of unsatisfactory regulatory arrangements that have been in place over the course of a number of governments. But the difference between those governments that have come before and this government is that this government is prepared to make the significant microeconomic reform that is needed to deliver a telecommunications industry in this country that will foster innovation, drive down prices and deliver a competitive framework. This will ultimately give consumers and small business—business generally but, in particular, small business—access to a telecommunications sector that is competitive and delivers the best outcomes for those groups.

The current situation—if you listen to those on the other side—is clearly some sort of nirvana, when it comes to the current telecommunications regulatory environment. In fact, the reality of what we are dealing with is far from that. If we have a look at the process of consultation that the government embarked upon after making its NBN announcement earlier this year, we see that there were numerous submissions made. An overwhelming majority—in fact, nearly all of those submissions—identified the inadequate and unsatisfactory nature of the current regulatory arrangements. These measures are responding to the inadequacy of those arrangements. These measures, for the first time, are demonstrating on the part of this government a preparedness to make the hard decisions—the big decisions—that will set up the telecommunications industry and our economy into the future.

If we look at what some of those submissions said, we see that the inescapable conclusion that I think was best identified by the ACCC was that Telstra remains one of the most integrated telecommunications companies in the world. There are a range of issues that are to be debated as part of this legislation. The National Broadband Network, albeit not inextricably connected to this legislation, is an important element of the debate that is to be had. The NBN is the plan that we will roll out across this country. It will deliver high-speed broadband and do what the previous government so abysmally failed to do. They have a very poor record when it comes to broadband.

Mr Briggs interjecting—

Mr BRADBURY —They want to object and they want to stand in the way. They want to delay and block our plan, but they had 11½ years to deliver their plans. In fact, they had 18 failed broadband plans, and they still failed to deliver broadband at the level and the speed that Australians expect.

The broadband record that we inherited is very poor. It is a record that this government is determined to improve upon. If we look at some of the OECD statistics, we see that Australia is in the bottom half of OECD countries in terms of broadband take-up—16th out of 30 countries. Australians pay more for their broadband than most OECD countries. On that measure, we are 20th out of 29 countries. In terms of average monthly subscriptions, Australia is the fourth most expensive when it comes to low-speed connections and the fifth most expensive for medium-speed connections. That is the state of affairs in broadband that this government inherited. It is not good enough. We are determined to make good on our pre-election commitments to roll out a national broadband network. We will do that.

If it was not already clear to people before we went through the process of consulting in relation to regulatory reform in the telecommunications industry, it is now crystal clear that the current arrangements need to be reformed. It is not as if the government is without support on these matters. I find it somewhat amusing, but I think it also demonstrates a little bit of honesty, that Senator Joyce has come out and reaffirmed that it is the National Party's position that they support structural separation. The Herald Sun reported on 16 September:

Senator Joyce said the Nationals would discuss their position in the coming days but added that the party had always supported the structural separation of Telstra.

"We have no problem with a company in the marketplace that is too powerful being broken into two to assist competition," he said.

That sounds pretty clear to me. It seems a bit inconsistent with some of the offerings from those opposite in this debate. As recently as this morning in the Australian Senator Joyce again reaffirmed his position. He said in relation to the coalition's dogged, and very frustrating, determination to delay this process:

"I've got no real problem with delay" ...

"But I'm not convinced we'll listen closely to the argument that structural separation is not a good idea. I strongly believe it's something that we should have done."

I think, at the end of the day, that will be the conclusion that most members who have a good look at the current regulatory arrangements will arrive at. The current arrangements are broken, and not just in the eyes of Telstra's competitors, consumers and businesses. We do not have to go back all that far to see that many people who were associated with Telstra shared that view.

It is interesting that the big argument that is being put forward by those opposite is that they have become the great defenders of shareholder value when it comes to Telstra shares. Forget about your obligation to all of those constituents that you represent, including consumers and small businesses, who are trying to access the services.

Mr Briggs interjecting—

Mr BRADBURY —We are here, it seems, just to protect the interests of Telstra shareholders. I think there is a legitimate debate to be had about whether or not these proposals will in fact be detrimental to Telstra shareholders. I think there are some good reasons why Telstra could in the long run become a better company and could deliver better shareholder value as a result of these changes. I will come to that in a moment. That view is not without support amongst those that know a little bit more than the member for Mayo when it comes to valuing shares in the marketplace.

Mr Briggs interjecting—

Mr BRADBURY —When it comes to shareholder value, I simply make the observation that Senator Minchin, who is the opposition spokesperson on these matters, has become the white knight for Telstra, defending shareholder value. I put a fair bit of effort into searching the Hansard record—and perhaps the member for Mayo will have some record to the contrary—for any previous comments from Senator Minchin in defence of shareholder value. I thought a good place to start might be to go back to when he was a minister of the Crown, the finance minister, and the T2 share offer came into effect. At that point shares were at \$7.80. I noticed that, when T3, which was also undertaken by those opposite, came into effect, shares had dropped to \$3.30—less than half the value of the shares just a few years earlier. You would have thought that, with this massive erosion of shareholder value, someone so principled in his defence of the value of Telstra shares would have had something to say. Yet I cannot find a single comment. No doubt the member for Mayo, when he makes his contribution—and I look forward to that—will bring forward some evidence to the contrary on that point.

When it comes to shareholder value, just a few years ago, in the course of my research when trying to find some of those comments that I thought Senator Minchin may well have made, I saw some comments that were made by an executive of Telstra at the time, Phil Burgess, when what are largely the current set of regulatory arrangements were in place. He had a

few things to say in relation to shareholder value. In fact, when he was commenting on shareholder value he brought his mother into the picture. I am sure she is a lovely woman—I do not know her personally—but he made an observation that might have been of some import to those people who were considering at the time whether or not to invest in Telstra. He observed that he would not recommend Telstra shares to his mum. That is an extraordinary thing for an executive of a company to say about his own company, so you would have to think that there was something pretty serious threatening or jeopardising the value of Telstra shares as they were then.

I thought, 'I've got to find out what it is that was such a threat to Telstra shares that an executive of Telstra would come forward and say that he would not even recommend to his own mum to buy a share in that company. Then I found the quote from Mr Burgess:

'Our struggle — that is, the struggle of Telstra — is against a repressive, intrusive, draconian, punitive system of regulation.'

He is not known for his colourful language, but he went on to say:

'if you put a baby in a cage with a tiger and the tiger eats the baby, you shouldn't be surprised'

I am not even going to try and interpret the metaphor, but the point remains: so bad is the current set of regulatory arrangements that even those who benefit from them—

Mr Briggs —The ones you set up.

Mr BRADBURY —The ones that we set up, says the member for Mayo—and the ones that clearly were retained for the entire period of the previous government, for a large part of which he was a senior adviser to the government. The reality is that I am not here to defend those that set up this failed system. We are here to introduce an improved system. There are those that will defend the failed system and then, when their defence can no longer be maintained, will say, 'We didn't set it up; you set it up.'

Mr Briggs —Aren't you proud of the Hawke and Keating record? Have you walked away from it?

Mr BRADBURY —We are proud of the Hawke and Keating record, but they did not get it right on this one. But, by the same token, they delivered some major reforms to the Australian economy. Whether it was floating the dollar, deregulating the financial markets or liberalising our trading arrangements, they made the tough decisions in the way that this government will make tough decisions of the sort that it is proposing. This is one of the most significant microeconomic reforms that this government has put before this parliament. Those opposite have been left behind, their only argument being that they are the great defenders of Telstra shareholder value.

Mr Briggs —No, and the taxpayer.

Mr BRADBURY —Well, I think we have demonstrated—

The DEPUTY SPEAKER (Ms JA Saffin)—I remind the member for Mayo that he is on the speakers list and he will get a go shortly. So just contain yourself for a little while, please, so I can hear. Thank you.

Mr BRADBURY —On the issue of shareholder value, I think it is worth noting the views of some market economists and some people who are better placed than many of us to assess what impact these arrangements might have on Telstra and its share price. On 17 September this year I saw in the Australian Financial Review:

Analysts at Macquarie Equities Research upgraded the stock to 'outperform' from 'neutral' while maintaining a \$3.60 target price, saying the government's regulatory reforms would allow for clarity and force a deadline by which a deal between the government and Telstra over the NBN would be reached.

'Should Telstra reach a deal with the government, it may be able to recover significant value,' said Macquarie analyst Andrew Levy in a note to clients.

That is a very good point. The difficulty and uncertainty surrounding the current regulatory arrangements have not been a positive for the share value of Telstra shareholders. The member for Mayo may wish to contest that point, but I would be very surprised if he were prepared to contend that these current regulatory arrangements are delivering the best outcomes for consumers and businesses. Frankly, they are not—and that is what is driving this reform. But I make that point in relation to shareholder value because that seems to be the one fig leaf behind which those on the other side are seeking some cover.

I also saw in the Financial Review of the same day a little piece entitled 'What they said'. It is worth looking at. Goldman Sachs, which is a great authority in this place, particularly since the member for Wentworth joined us, said:

The announcement could mark the last of the adverse regulatory news flow for Telstra. While full resolution is unlikely until the end of the year, we are nearing greater certainty.

Obviously Goldman Sachs sees some opportunity for an optimistic outlook heading into the discussions between the government and Telstra and beyond. Credit Suisse said:

In order for the government to deliver its policy objective, it needs Telstra on side. So, despite the large regulatory stick, we still see plenty of scope for Telstra to extract value from NBN negotiations.

Merrill Lynch said:

Assuming Telstra agrees to the gradual structural separation and is allowed to acquire future spectrum and keep Foxtel, there are no changes to our earnings forecasts or valuation.

UBS said:

Structural separation, if it emerges, should help crystallise the value of assets and Telstra's dominant fixed-line customer base. Additionally, separation should release Telstra from regulatory shackles.

I would suggest there was a little hyperbole in Mr Burgess's commentary, but they are the sorts of shackles that he was referring to.

I put it to the House that, far from being a great detriment to Telstra, these reforms also provide great opportunity. As a nation we need to keep our eye on the big picture, which is ensuring that we have a telecommunications sector that is open and competitive—one that encourages innovation, one that allows consumers to access those products on that market as cheaply as possible and one where the market is as efficient as possible.

Citigroup were confident of a favourable outcome under the new management team. However, there is still a lot of uncertainty. Morgan Stanley said:

Telstra's negotiating position appears to be far better than the current stock price implies, and we believe a more moderate outcome will emerge.

Deutsche Bank said:

We estimate the cost of structural separation is about \$2.5 billion, but vending assets in return for a minority stake in NBN and transfer of \$8.5 billion of debt could prove attractive.

These are hardly the sounds of the death knell of Telstra and hardly any support for this proposition that the Telstra share prices are going to take a hit of the sort that is being promoted by those on the other side.

I would like to draw the House's attention to a couple of other comments that really go to this issue of the opportunities it creates for Telstra. I see in the article Reinvention Essential for Telco's Future in the Australian Financial Review on 6 April:

There are potentially positive dimensions to structural separation for Telstra. A new wholesale division could be formed with capitalisation contributed by government and even in partnership with other telecommunications players.

This is obviously speculating on various options before the government's announcement was made. It continues:

This business would be heavily regulated but would also be low-risk with predictable returns.

... ..

It would still maintain significant market power because of its scale and brand. Its prospects of competitive success in this business must be considered good. With lower prices and better services, new waves of demand will be unleashed.

These are the sorts of opportunities that exist. We want to work with Telstra to deliver separation either structurally in a voluntary way or functionally. It will deliver a more open and competitive framework. **(Time expired)**