

Telecommunications National Code Review

January 1996

Background

The Telecommunications National Code sets out the responsibilities of the carriers when installing telecommunications infrastructure. This includes the requirement to consult with relevant State and Territory authorities in advance of installation and adherence to technical, safety and environmental standards.

In November 1994, the Government gave a commitment to Parliament that a full review of the National Code would be undertaken by AUSTEL, following the first full year of the Code's operation.

In June 1995, the Minister for Communications and the Arts directed AUSTEL to hold a public inquiry into the operation of the National Code since its introduction on 30 June 1994 and report to him on its findings. He directed AUSTEL to examine the notification and consultation requirements and any other issue of relevance to the operation of the Code.

Based on the review, the Minister may seek Parliament's approval to amend the National Code. Any new Code, once passed by Parliament, will apply until 30 June 1997.

Conduct of the review

Discussion paper

To encourage public participation, AUSTEL issued a Discussion Paper in July 1995 outlining the provisions of the Code, how it operates and areas which were relevant to a consideration of its operation.

AUSTEL received 139 submissions including many from private individuals, from each of the three carriers (Telstra, Optus and Vodafone) and some Commonwealth, State and

Territory authorities, including a number of local government authorities and the Australian Local Government Association.

Public discussion forums

A series of public forums was conducted by AUSTEL during August in Adelaide, Brisbane, Canberra, Melbourne, Perth and Sydney. At these discussions, each of the three carriers presented its position, persons who had made submissions were invited to speak an opportunity was then provided for other members of the public to ask questions or participate in the discussion.

Issues Paper

In November 1995 AUSTEL released an Issues Paper in which these issues were discussed in some depth and a range of questions arising from them was posed.

A copy of the Issues Paper was sent to each of the local government bodies throughout Australia, to the local government representative bodies in each State, to each Senator and Member of the House of Representatives, to the responsible Minister in each State, and to each person or body who had made a submission in response to the July Discussion Paper.

The availability of the Issues Paper was advertised nationally and an electronic copy of the Paper was also made available on the Internet. In total, more than 1500 copies of the Issues Paper were distributed.

Submissions on the matters raised in the Issues Paper were sought. One hundred and forty six submissions were received in response to the Issues Paper.

The new report draws substantially upon the content of the submissions

and comments received by AUSTEL in the course of this review.

Recommendations

AUSTEL has developed its 57 recommendations in respect of the following matters:

- notification of proposals
- public notification of proposal and consultation
- community consultation
- co-location
- activities exempted from the Code
- corporate environmental plans
- locality planning statements
- classifying the impact of proposals
- processes applicable to the Department of Environment, Sport and Territories
- timeframe for consideration and decision on proposals by local authorities
- establishing key matters - onus of proof
- awareness and understanding of the Code
- processes for amending National Code
- assessment fees
- dispute resolution

In particular, AUSTEL recommends that the National Code be amended to incorporate the following:

Consultation process

Impose an obligation on a carrier to consult with the community if required by a local government body where the activity is categorised as having a high impact. Where community consultation is required, the carrier could be required to give public notice of their proposal to install a facility through newspaper advertisements and leaflets. The carrier and the local government (or equivalent) body should jointly conduct the community consultation,

Press Release

with the carrier bearing the cost.

AUSTEL recommends the minimum extent of community consultation which a carrier must engage in should include, for example, holding a public meeting to provide details of the proposal, including the environmental assessment of the proposal, and the technical and environmental assessment of any alternatives considered by the carrier.

"relevant State and Territory authorities which are not local government bodies have the same powers as local government bodies under the same conditions."

Co-location of facilities

The proposed Advisory Committee develop a co-location code of practice, with local government playing a more significant role in exploring co-location opportunities through the development of 'locality planning statements'.

As an incentive to carriers to co-locate their facilities with facilities operated by other carriers or with structures or installations operated by public utilities, certain conditions are to apply, relating to costs and time-frames of co-location.

Where a carrier or a public utility asserts that co-location is not appropriate, that carrier or public utility must satisfy the relevant authority (and in the event of failing to do so, establishing through the independent dispute resolution process) that co-location is not appropriate.

Environmental and Heritage Impact

As a means of minimising environmental and heritage impact and encouraging co-location of facilities, AUSTEL suggests that the 'locality planning statements' identify 'green-light' and 'no-go' zones. Carriers will have the responsibility to satisfy relevant authorities that their facilities and locations are suitable, if necessary, through the independent dispute resolution process.

To assess the level of environmental impact of a proposed installation, it is recommended that the National Code be amended to include criteria similar to those in the Municipal Association of Victoria guidelines. This would include assessing the impact of different types of facilities, such as a pole tower, in the area of location, whether it be a heritage and conservation, residential, commercial, industrial or rural area.

It is also suggested that the AUSTEL Advisory Committee consider improving those criteria and determine whether any, and if so, what, changes are required.

Dispute Resolution committees

The adoption of a national independent approach to dispute resolution between carriers and relevant authorities. A panel of Associate Members of AUSTEL should be appointed for dispute resolution cases, with AUSTEL the final arbiter. Dispute Resolution committees consisting of these

Members would be constituted as required. There would be a process in place with strict timeframes for the dispute resolution process.

Advisory Committee

The establishment of an Advisory Committee to provide AUSTEL with advice on National Code matters and provide a regular forum for ongoing dialogue. The committee would consist of representatives from AUSTEL, the Department of Communications and the Arts, the Australian Heritage Commission, the Environment Protection Agency, the Federal Bureau of Consumer Affairs, the Australian Local Government Association, persons nominated by the National Environment Protection Council to represent relevant State and Territory authorities which are not local government bodies and representatives of each of the carriers.

The role of the Advisory Committee includes assisting in the exchange of information relating to telecommunications technology and its impact on regional planning, in monitoring the processes and developing an Industry Code of Practice on co-location.

Awareness of Code

AUSTEL should be given primary responsibility for improving awareness and understanding of the Code through a co-ordinated, national strategy. This should be principally done by preparing and supplying information kits explaining the National Code to local councils; and