11. The two cultures re-examined: a perspective on leadership and policy management in business and government

Philip M Burgess

In this essay, I will reflect on my experience as a student of governance, working for many years in the academy and as a practitioner or clinician of the same, working in the United States, East Asia, Europe and, of course, Australia, in order to make some observations about the key differences between the political cultures of the United States and Australia as they relate to public policy making.

The two cultures of business and government

For a long time, I have been fascinated by the decision-making environments of public administration and business administration. I believe the differences are much more important than the similarities.

As shown in more detail in Appendix 11.A, these differences are many. For example:

• goal setting in the enterprise sector—to delight customers and reward shareholders—is relatively narrow compared with the comprehensive ‘public interest’ objectives pursued by government
• enterprise sector leaders almost always enjoy the support and encouragement of their policy board; by contrast, public sector leaders are nearly always opposed by a vocal segment of their policy board—the legislature—which tries to embarrass, trip up or otherwise undermine the authority and standing of the leader
• enterprise leaders have enormous control over the decision process—the who, what, when and how of decision making; the CEO can decide who will participate on what issues at what time in what arena; public sector leaders do not have this kind of control
• enterprise leaders have substantial control over staffing and other ‘factors of production’; public sector leaders are much more constrained in the hiring, sacking and assignment of people.

As a result of these differences, there is a lot of room for misunderstanding between the wealth-creating institutions of society and the institutions of government. It is often difficult for the CEO and his enterprise leadership to
understand and take account of the fact that the public sector leader typically needs:

- a public interest rationale (that is, ‘cover’ or an inspired or ‘creative’ explanation) for doing something that involves or benefits the enterprise sector; because everything is public, the mission of the public sector is the public interest and the public is often sceptical (not without reason) of government–business relationships
- time—because public leaders need to make sure key stakeholders are on board; this is a process that takes time, especially when some have a formal or informal ‘veto’ power
- occasions for decision (or decision situations) that bring distributed benefits (what the game theorist calls ‘side payments’) for relevant stakeholders—because the building and maintenance of coalitions require benefits (what the game theorist calls ‘pay-offs’) for everyone participating in the winning coalition.

These decision-making needs of the public manager—for a public interest rationale, time and distributed benefits to players beyond the buyer and the seller—are not typical considerations to the ‘let’s do it now’ orientation of most enterprise leaders who value results and often devalue or don’t understand the process requirements of coalition building.

Therefore, we should not be surprised that the two sectors sometimes find themselves on a collision course—and occasionally even collide, usually with a loud crash when it happens. And we should also not be surprised that the two cultures often find it hard to cooperate.

The two cultures of the enterprise sector and the government will never be totally comfortable with the other. Nor should they be. They have different missions and a different modus operandi. Instead, they should make things work in the context of a healthy tension.

**The public order and the civic order**

Let’s look more deeply at the public policymaking equation in a democracy—one that involves a relationship between:

- the public order, which includes government and other public authorities (legislative, executive, judicial and quasi-judicial regulatory agencies) at every level
- the civic order, which includes the private or enterprise sector (for example, business enterprises) as well as voluntary and non-profit organisations such as neighbourhoods, sports clubs, peak industry associations, think tanks, service clubs, churches, mosques, synagogues, centres for the performing
arts, museums and other cultural resources—indeed, all the things voluntary associations do.

A strong civic order is a key element of a healthy and resilient democracy. The enterprise sector is a key element of the civic sector—not the least because it is the primary wealth-producing segment of society. Hence the domination of one over the other—in either direction—is not good for democratic governance, and we should all work to keep the relationships in balance.

In my view, that relationship is out of balance in Australia, where the public order dominates the civic order through agenda setting, money and expectations.

The political cultures of the United States and Australia

I arrived in Sydney on 4 July 2005 expecting to stay only a month or perhaps two at the outside. The first question people typically ask is, ‘How do you like it here’ or ‘What do you like most about Australia?’ That’s easy:

• the people—the upbeat, curious, welcoming and down-to-earth character of the people
• the dominant values—such as ‘mateship’, ‘a fair go’ and a willingness to call ‘rubbish’ what it is
• the ‘no worries’ spirit that embodies a forgiving temperament and gives people a lot of latitude
• the ‘good onya’ that encourages, heartens, gives confidence and shows appreciation
• the whole concept of ‘stuffing it’ that shows an ability to impose standards without disparagement
• the breathtaking natural resources—the land, the flora and fauna, the coastal waters\(^4\) and…the mines. I love mines, especially open-pit mines.\(^5\)

Invariably, the second question people ask is, ‘What has been your biggest surprise since arriving here?’ Then they often give me ‘hints’, such as:

• ‘You’ve taken some baths in the media, mate. Wasn’t that a surprise?’
• ‘Politics here is pretty “rough”, don’t you think? Were you prepared for that?’
• ‘I’ll bet you’re surprised how well known your eighty-eight-year-old mum became in such a short time?’

I have to say the media hasn’t been a surprise. I have spent most of my professional life in public positions so playing the role of the spear carrier—with the spears sometimes in my back—is something I’m used to.

Nor have I been surprised by the politics. For 15 years, during the academic part of my career, I taught comparative politics. We always covered the various
forms of parliamentary government, including the Westminster system practised in the United Kingdom and throughout most of the Commonwealth.6

Put another way, I understand very well the differences between the presidential system of the United States and the parliamentary system of Australia—and I especially understand how the ‘fusion of powers’ in the parliamentary system concentrates enormous power in the hands of a minister. That is very different from the United States.7

In the presidential system, as most of you know, the cabinet secretary is one voice among many. He or she has enormous influence, to be sure, but is hemmed in on all sides by the realities of the ‘separation of powers’ invented by Montesquieu but first put into practice in the American Constitution of 1789.8

In the US system, if you don’t like what the cabinet secretary is doing, you have many options—the most important of which include going to the White House or to Congress.

When you go to Congress, you have 12 choices to go after a minister’s decision. You can go to the department’s oversight committee in the Senate, or the House that might be chaired by the opposition, or the authorisation or appropriations committees that provide the department’s money.9

These are each separate political systems, each with its own power structures and own rules—each of which is a constraint around the neck of the cabinet secretary. I must say, in passing, that my experience here has given me a new appreciation of Montesquieu’s genius.

And, of course, in the United States, every major issue area is surrounded by a ‘permanent’ campaign that includes:

- research-based professional messaging
- tracking polls
- the segmentation and clustering of constituencies
- massive and ongoing constituency lobbying
- targeted advertising and messaging in the mass media
- wide use of new media such as the Internet (blogs, podcasting, social media such as YouTube) and talkback radio
- direct lobbying of the principals.10

Punchline: the enormous concentration of power in the hands of the minister limits the give and take that you normally ascribe to good policy making. When the minister is against you, your options are limited to what I call ‘the four strategies’: sit, fight, join or run:

- appeal to the Prime Minister (fight)
- grin and bear it (join)
- give in, retreat or go do something else (run)
appeal to the people because in a democratic society the people, in the final analysis, call the shots (fight).

In the case of our National Broadband Plan proposed by Telstra in August and September 2005, when faced with ministerial opposition to broadbanding Australia with fibre and other fixed-line assets, we invoked three of the four options.

Option one: we appealed to the Prime Minister (John Howard). It didn’t work.

Option three: when we hit a dead-end with appeals, we decided to move to the largely unregulated wireless space to build a nationwide high-speed broadband network. We call it Next G. It is now the world’s largest, fastest and most-advanced wireless broadband network.

Option four: simultaneously, we decided to appeal to the commonsense of the Australian people. We informed and educated people through our Broadband Australia Campaign, called ‘BACk’. We mobilised people through Telstra Active Supporters (TAS). We did all of this using our alternative web site (<nowwearetalking.com>)—the nation’s first corporate alternative web site—and other channels, including:

- direct mail to shareholders, who have a big stake in what the government does that might devalue shareholder value
- personal visits by Telstra executives to more than 100 communities to get our story out (I personally visited 54 communities during the nine-month campaign)
- op-ed commentaries in mainstream national media as well as regional and local print and electronic media.

As a result of these initiatives, we were able to increase awareness and interest in broadband from the single digits (7 per cent in one early poll) to more than 60 per cent in about six months. Then the broadband issue was picked up as a campaign issue and public awareness and interest soared.

Now, let me turn to the ‘roughness’ of politics in Australia. I have not been surprised because we have a saying where I come from that ‘politics ain’t beanbag’. I’ve learned that this is also the case here. I think politics is rough everywhere—and, in a way, it should be. After all, a lot is at stake.\(^\text{11}\)

So even though there are differences, the media and the politics have not been a surprise. However, there have been two other surprises.

First, I have been surprised by the lack of interest in real dialogue and debate by public authorities—regulators, elected officials and public servants—with the industry on matters that extend beyond laws and regulations. When we tried to have these discussions under the previous government:
• political operatives said their hands were tied by the regulators
• regulators pointed to the ministers
• ministers pointed to the departments
• the departments either went dark or gave a routine defence of established positions and that took us full circle to the four options, which were now down to two: grin and bear it and/or mobilise the public.

The lack of dialogue between government and business is not ever a healthy situation—but especially not in a sector characterised by intense global competition and rapid technological change.

My view is different: when people disagree, we should welcome argument and seek to resolve it, relying as much as possible on facts, data and reason—pushing emotion and prejudice as much as possible into the background. That way, more times than not, we will reach the right decision. And if we don’t, we fix it.

There was a second surprise. I was gobsmacked by the timidity of civic leadership and the lack of robust civic institutions.

Put another way, I am most surprised that think tanks, peak industry groups and other non-governmental organisations are not more assertive about the work they do addressing many of the critical issues of the day.

Many of these issue areas, where decisions will have an impact for generations to come, are too important to be left to governments. They deserve broad public dialogue that is civil and informed.

I believe that democratic societies are stronger when the civic order can challenge the public order.

The civic order must provide venues where serious people can come together to investigate and discuss issues of national importance around the rule of reason informed by facts and data.

In Australia, there are many, though not an abundance, of what I call ‘civic leadership institutions’ that do very good policy research and hold forums where serious people can come together to address issues of national importance. For example:

• there are international think tanks such as the Lowy Institute for International Policy (Sydney) and the Australian Institute for International Affairs (Canberra)
• there are domestic policy think tanks, such as the Institute for Public Affairs (Melbourne), the Tasman Institute (Melbourne) and the Australia Institute (Canberra), and new ones are on the drawing board
• there are peak industry groups that do policy research and hold forums, such as the Business Council of Australia (BCA, Melbourne) and the Committee for Economic Development of Australia (CEDA, Melbourne and Sydney)
• there are consultancies such as Concept Economics (Canberra) and Tasman Asia Pacific (Melbourne) that do outstanding analytical work and hold forums from time to time.
• there are independent institutions that hold forums, but don’t do research, such as the Sydney Institute, the National Press Club in Canberra, the Foreign Correspondents Press Club in Sydney, the Trans-Tasman Business Circle and Davos Australia.

Why are these other venues needed, one might ask? These kinds of groups assemble influential opinion leaders from all walks of life—the very people who should be exposed to balanced discussions or even formal, Oxford-style debates of the cardinal issues of our day, of which investment in telecommunications is certainly one.

When issues are taken up in the media, they are almost always discussed either in personal or political terms or in ‘horse-race’ who’s winning terms.

When issues are taken up in forums dominated by lawyers or regulators, they are typically discussed in strictly legal terms that often drive out commonsense and shrink the opportunity for the creative, no-fault or win-win solutions.

Once issues get to the courts, a whole new dynamic, including new rules of evidence, takes over. This happens when politics fails and democratic policy making gives way to the judicial process—though Clausewitz might say, ‘A law suit is an extension of politics by other means’.

When the issues are taken up in forums dominated by economists, well, everyone knows what happens then. They make a lot of money because no-one knows what they are talking about.

So, what surprises me is this: Australia has a wide range of accessible and capable civic leadership groups that do not seem to have as much impact as they should in sparking public debate, shaping the public dialogue and influencing public policy. Instead, they try to influence Canberra and leave the public to shift for themselves.

Maybe my 34 months in Australia are a bad sample of time. That could be. But I have also been told by elected leaders from different political persuasions and by public servants who have been around for a long time that the influence of civic leadership groups has waned in recent years, that they used to play a larger role in agenda setting, the clarification of alternatives and the assessment of results.

Speaking to the telecom issues I care most about professionally, I am surprised by the relative lack of interest in the long-term benefits of the digital revolution and its importance for the future of the people, enterprises and communities of Australia. Instead, people talk about the politics of telecommunications (not its
societal benefits), about the details of regulation (for example, the role of the ACCC, structural separation and other diversions) and whether or not Telstra is a monopoly or a community property, when it is neither. But, they seldom talk about what the digital revolution means for jobs, growth, productivity and the economic development of Australia.

That, I think, is unfortunate, because, once again, these issues are too important to be left to government or the ‘experts’. Indeed, the business and public service professionals along with the economists and the regulators have carved out a special language—such as ‘unbundled local loop’ and ‘operational separation’ and on and on with impenetrable jargon—that makes it impossible for the ordinary citizen to participate in the debate even if he or she wants to.

I will leave it to people such as Hugh Mackay, Bernard Salt and others much smarter than I to lay bare the reasons for an anaemic civic sector and timid civic leadership, but I think it is an issue that we need to address because a strong civic order goes to the heart of building a strong and resilient society that can withstand social, political, economic, demographic or natural resource tremors now unforeseen.

Some might suggest that the 2020 Summit was a breakthrough for civic leadership in Australia. I would argue it was almost the exact opposite: a gathering of delegates selected by government, elevated by government and media managed (brilliantly) by government. That is not an example of a robust civic society in action.

Leadership profiles in the United States and Australia

The other side of the coin of Australia’s tepid civic leadership in public policy is a highly state-centric approach. It is the job of elected leaders to address any and all issues of concern to the public, but in Australia that also means senior members of the Public Service—bureaucrats, administrators and regulators—speak out regularly on matters of public concern. The views of public servants convey high legitimacy and authority in the political culture—not just in a formal legal and political sense but in a wider civic sense.

Hand in hand with this, there is great interest (especially in the elite media) in the lives and leadership perspectives of leading public service figures. Again, I’m not talking about elected leaders. One thinks, for example, of the high profiles of individuals such as:

- Treasury Secretary, Ken Henry
- ACCC Chairman, Graeme Samuel
- Productivity Commission Chairman, Gary Banks
- former head of the Department of Prime Minister and Cabinet, Peter Shergold
- Reserve Bank Governor, Glenn Stevens, and his predecessor, Ian Macfarlane.
The same could be said of Professor Allan Fels during his distinguished tenure as the Chairman of the ACCC.\textsuperscript{21}

Punchline: the visibility, salience, ‘presence’ and authority of public service leaders are very high when compared with the voices of civil society in Australia. That includes the voice of business. The difference, I would argue, is not just one of degree, but of kind. Like most social observers, I think of business as a key element of the civic order. But it’s my experience that business leadership in Australia tends to be viewed more in a private domain—not unlike one’s family or personal life.

As a result, business leadership is a fairly low-profile calling, at least compared with countries such as the United States, Germany, Sweden or Japan. When you think of a great Australian business leader such as Frank Lowy, for example, his civic role is viewed almost exclusively through the prism of his chairmanship of Football Federation Australia or as the founder and chief benefactor of the Lowy Institute for International Policy, rather than, principally, as a business leader.\textsuperscript{22}

I have found that Australians are encouraged by the media to feel angry, or at least slightly embarrassed, about business leaders who are financially rewarded for their success. When an Australian actor or sportsperson commands millions to make a movie or play a match, they are treated as national heroes. Nicole Kidman demands $10 million per movie, the Wiggles earn $45 million annually and Hi-5 receives around $15 million a year. Yet, when a leader of business earns in the neighbourhood of six to eight figures, they are most often condemned as greedy and undeserving.

In the United States, by contrast, the views of leading business figures (and not just the salaries they earn) are the subject of intense interest—not just in the media, but in the wider public. Stroll around any book store in the United States and you find books by business giants such as:

- GE’s Jack Welch
- Microsoft founder, Bill Gates
- Chrysler CEO, Lee Iacocca
- IBM CEO, Lou Gerstner
- Berkshire Hathaway CEO, Warren Buffett.\textsuperscript{23}

They write on a variety of issues, including:

- leadership
- lessons learned in life and business
- the changing workplace
- the emerging global marketplace
- the future of technology
challenges facing society.

Moreover, these books regularly find their way onto non-fiction bestseller lists. In fact, there is pretty good evidence that a well-known and respected CEO can give a couple of points of lift to share values.

In Australia, by contrast, the business book genre invariably is of the ‘rise and fall’, ‘ups and downs’ and ‘trials and tribulations’ variety. The market is defined much more by the shortcomings of business leaders than by the inspiration and insight their experience can offer to making organisations work or to making the world a better place. One thinks, for example, of works by Trevor Sykes, Paul Barry and Mark Westfield, shining a torch on the hubris and folly of the commercial world.

Result: the civic authority and legitimacy of business leaders are diminished when they speak about the public interest in the public square.

If I’m right, what explains this contrast? To my way of thinking, there are two sources.

First, the diminished role of civil society means a diminished role for civic institutions and the men and women who lead them. This includes foundation executives, universities and think tanks as much as the big end of town. In fact, to the extent these civic leaders are ‘players’ they play in arenas organised by the public order—as evidenced by the 2020 Summit.

Second, there might be historical reasons for the diminished role of civic leaders—and of business leaders especially. I am new to Australia’s history, but my reading over the past 34 months tells me that Australia did not experience the giant accumulations of private wealth associated with the heroic era of industrial growth in the United States in the nineteenth century. In the United States, heroic individual capitalist titans built:

- railroad, telephone and electricity networks
- oil and gas pipelines
- massive irrigation systems
- great financial, mining and manufacturing conglomerates.

This first wave of industrialisation was a time of rapid growth—and change—and was shaped by business leaders such as Andrew Carnegie, J. P. Morgan, John D. Rockefeller, Thomas Edison, Harvey Firestone and Henry Ford—household names to every American today.

Those capitalists and entrepreneurs acquired a profile, together with public and private power, that was a striking feature of America’s political and social landscape. These men—and they were all men during this era—also articulated a public ideology of stewardship that expressed itself in philanthropy, reflecting a wide range of beliefs from the ‘social gospel’ to ‘social Darwinism’.
After the turn of the century, when the capitalist titans were replaced by business administrators, the new, bureaucratised ‘managerial elite’ were well-known, admired and influential individuals—the likes of Theodore Vail at AT&T, Gerald Swope at GE or Alfred Sloan at General Motors. In fact, AT&T executive Chester Barnard wrote *The Functions of the Executive*, which is a classic on executive leadership in business administration as well as public administration. 28

In Australia, by contrast, the State took the lead in the building of national infrastructure, drawing mainly on capital borrowed from Britain. As a result, the leaders who helped forge that infrastructure—men such as Sir John Monash—were largely *administrators* of the business of the State, rather than forces separate from and external to it. As for manufacturing and mining, with a few exceptions, major Australian operations were foreign owned and those who ran them were subordinate to a head office located in London or elsewhere overseas.

Public policy also played a role, especially in the embrace of protectionism—‘protection all round’—and centralised industrial relations in the early twentieth century.

Protectionism and industrial relations enmeshed business in the political system in a way that weakened its capacity to act as a counterbalance to the State in terms of civic legitimacy and authority.

These pillars of what Paul Kelly has called the ‘Australian settlement’ not only deadened the entrepreneurial impulse of Australian business; I would argue they weakened the civic culture of a new nation. 29 The result was a sort of corporatist, state-centred, ‘mother-may-I’ mentality that W. K. Hancock described so brilliantly in his classic study of Australia in 1930.30

Even when Australian business found a more outward-looking, reformist and competitive voice in the 1980s, there was a powerful view that it should try to come together around a national ‘consensus’, rather than simply accept that a degree of civic head-butting was a healthy, normal part of a mature democracy.31

Business leaders did engage in great policy debates at times; I think of episodes such as the bank nationalisation battle of the late 1940s, which appears to have played an important role in the defeat of Ben Chifley and the election of Robert Menzies. Yet, the individual presence of business leaders was less marked, their role was more in the backroom of politics and their civic standing was more contested.

There were, to be sure, business voices advocating the floating of the dollar, the liberalisation of tariffs and the deregulation of the labour market—but it also has to be said they were few and most often muted.
It reminds me of my own experience working at Telstra. When we were faced with difficult issues with the government and the regulator, we were advised that ‘a public stoush with the government won’t work’, that ‘it will offend the minister’ and ‘that is not the way we do it in Australia’. That might be true, but I think the record will show that what some people call a ‘stoush’ others call ‘public education’—and when the public is educated, they can move issues a lot more effectively than all the lobbyists and backroom politics put together.

Conversely, biting your tongue and playing the backroom game serves only to reduce the voice and authority of civil society—including business.

I’m reminded in this context of a wonderful essay by the late Donald Horne, entitled simply ‘Businessmen’, which captures the diminished place of business in Australian civic life by the second half of the twentieth century. Horne writes:

Business and businessmen are almost completely unwritten about in Australia...Many intellectuals—especially those who are in the universities or the cultural world or the professions, or the more remote kinds of government departments—confidently express as fact about the nature of Australian businessmen what is really the repetition of fashionable myth. These people never meet businessmen; they never read about them (except to read a repetition of fashionable myth); they are not really interested in them and would not bother to cross the street to find out a fact about them; but they have them neatly taped and ticketed for all that—in the most unscientifically generalised terms that seem to include everybody who does business, from the local estate agent to the chairman of directors of BHP.

Horne goes on to list what he calls the ‘hive-full of preconceptions’ that swarm around the idea that Australian businessmen are ‘uneducated, provincially ignorant, suburban-minded, vulgar, anti-intellectual, reactionary, materialistic bores, more Babbitt than Babbitt’.

This piece of socio-cultural commentary is grating to the ear of this American. It’s like fingernails on the chalk board. I grew up on a diet of Horatio Alger stories that celebrate hard work, entrepreneurial drive and the American dream. When I was in the seventh grade, we began each day with the pledge of allegiance to the flag and a 10-minute Horatio Alger story played over the school intercom.

Let me pose as an open question to you: except for the need to replace ‘businessmen’ with a more gender-neutral term, how much has changed in the four and a half decades since Donald Horne penned that essay?

I’m not suggesting there is anything sinister here or that business perspectives on public policy deserve legitimacy independent of their merits. Nor is this a
prelude to some latter-day version of ‘what’s good for Telstra (or Holden or BHP) is good for the country’.

Like many of you, I’ve read my Adam Smith. Good public policy assuredly demands alertness to rent seeking, brazenly self-interested behaviour and ‘conspiracies against the public’ on the part of business.

My real point concerns the degree to which good policy and a healthy democracy require multiple and, in some sense, counterbalancing voices of legitimacy and authority in public policy debates. Without this, we tend to be left with the comfortable status quo, and that can impose very large costs and extract very severe penalties.

Put another way, I believe that:

• the public interest is too important to be left to the public sector, however wise our public officials might be
• politics is too important to be left to the politicians.

Ordinary people and civic institutions have much to contribute in a literate and developed society. The late William Buckley, a giant among public intellectuals in the United States, once said, ‘If I had a choice between being governed by the Harvard faculty or the first 100 names in the Boston phone book, I would take the phone book.’ There is a lot to ponder in those words, especially in view of the mess that technocrats made of the twentieth century.

**Telecommunications regulation in the political culture of Australia**

Let me conclude with a few words about the business I’m in—telecommunications—and my job, to make the case for reform of telecommunications regulation in this country. The telecommunications debate in Australia highlights in stark relief the issues I have been discussing—in particular, a presumption that public policy debate should be a matter for government and its intimates, and not an open debate in which civic leaders, including business leaders, and civic institutions play a vigorous, transparent role.

Closely associated with that is a persistent confidence in the public sector in what regulation can achieve—despite overwhelming evidence to the contrary.

Indeed, the call for proposals to build high-speed broadband fibre out into the neighbourhoods of the nation—called FTTN or fibre-to-the-node—contains a ‘gag order’ that asks those making proposals not to speak publicly on the substance or the process of their proposals at the risk of being eliminated from the bidding process.\(^{35}\)
The reality I deal with every day is that Australia’s telecommunications regime is failing under a burden of regulatory overreach. I am not talking here about mere faults of implementation, but rather deep-seated, underlying problems with the design of the regime—its systems, style, structures and processes—and the reality that technology has changed, consumer preferences have changed and the competitive environment has changed, but regulations have not. That’s why there is an urgent need to:

• reduce the scope of regulation
• place stronger limits on regulatory discretion
• separate the functions of cop, judge, jury and hangman
• increase overall accountability in the regulatory regime.

Good regulation serves three primary functions:

• it protects the consumer, including health and safety as well as providing more choices for consumers
• it encourages investment, in part to spark innovation to give consumers more choices and cheaper prices
• it fosters a healthy and competitive industry.

Using these established standards for assessment, the ACCC’s performance in the telecommunications space is not just a failure, it is a dismal failure:

• consumers have been denied choices in the marketplace
• investment growth in telecommunications is negative over the past three years if you take Telstra out of the mix
• Australia’s telecommunications industry is anything but healthy.

The ACCC has fumbled, badly, in the case of telecommunications and things need to be fixed.

More specifically, we need a regulatory regime that:

• affords regulated parties due process and procedural fairness
• makes decisions on the basis of facts and data—not conjecture
• applies consistent and predictable standards in both the application of the law and in the decisions made
• uses special powers judiciously and sparingly—particularly powers that impinge on fundamental rights
• builds and maintains trust.

Unfortunately, my experience suggests that these principles are honoured more in their breach by the ACCC in decision making about the telecommunications industry.

Effecting change involves a larger issue that goes to leadership and culture. It concerns Australia’s willingness to embrace a dynamic, future-oriented approach.
to the regulation of telecommunications technology and to leave behind a static and defensive one.

Telecommunications seems to be one of those policy areas where this wonderfully successful New World country seems strangely ambivalent—and anxious—about the future. The ambivalence is found in the public sector and the civic sector. That’s why it is time to engage. That’s why the future requires a different approach. And that’s why business leaders and others who speak for civil society and our civic institutions must stand up and be counted. Public policy is not just about government.

**Appendix 11.A: Decision making in the public and private sector is different**

<table>
<thead>
<tr>
<th>Decision-making Function</th>
<th>Enterprise Sector</th>
<th>Public Sector</th>
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<tbody>
<tr>
<td>Goal setting of the Chief Executive Officer (CEO) and the Elected Executive Officer (EEO)</td>
<td>Relatively narrow: to turn consumers into customers, delight customers, increase shareholder value — though the corporate social responsibility (CSR) movement is advancing broader environmental, diversity and others stewardship objectives for corporations.</td>
<td>Broad: to maintain a minimum winning coalition among competing interests and competing stakeholders in pursuit of multiple economic, social, cultural, environmental, and political objectives.</td>
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<tr>
<td>Orientation</td>
<td>Substantial resources pursuing limited goals.</td>
<td>Substantial resources pursuing unlimited goals.</td>
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<tr>
<td>Major constraints</td>
<td>Financial, regulatory</td>
<td>Coalition maintenance, talent</td>
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<td>Validation</td>
<td>Year-end results, total shareholder return (TSR)</td>
<td>Election results.</td>
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<tr>
<td>Support of the policy making board</td>
<td>Boards of directors generally give high support to the CEO — or they get rid of him/her.</td>
<td>Legislatures typically have a large minority that continuously squabbles with the majority, consistently opposes the initiatives of leadership, and regularly tries to embarrass or otherwise trip up the EEO.</td>
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<tr>
<td>Control over the decision process</td>
<td>High control over decision process and the who, what, when, and how of decision-making. CEO can decide who will participate on what issues at what time in what arena.</td>
<td>Low control over the decision process and the who, what, when, how of decision-making. The legislature, public interest groups and other stakeholders, media, awareness of FOI vulnerabilities—all constrain the ability of the EEO to more than shape the process.</td>
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<td>---------------------------------</td>
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<tr>
<td>Decision rules</td>
<td>High control — though the CEO can and does set standard operating procedures (SOPs) for the rest of the enterprise, s/he can easily and quickly make exceptions or change them. Often requires board approval but ‘common cause’ facilitates flexibility. Somewhat less freedom to set rules in a regulated industry.</td>
<td>Low control because the EEO is formally constrained by procedures established externally by law (the ‘bureaucratic process’) and informally constrained by the decision criteria imported by stakeholders.</td>
</tr>
<tr>
<td>Flexibility</td>
<td>High, though for public companies the imperatives of disclosure and, for all enterprises, capital planning impose significant constraints.</td>
<td>Low, because in the process of forging a winning coalition entails commitments — promises and rewards; threats and punishments — that cannot be easily revisited.</td>
</tr>
<tr>
<td>Control over staffing</td>
<td>High in the hiring and assignment of people; some constraints on sacking imposed by laws and regulations.</td>
<td>Low in the hiring and sacking of people and very limited in the assignment of people.</td>
</tr>
</tbody>
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**ENDNOTES**

1 This essay was originally presented as an ANZSOG Public Lecture on 30 April 2008. These remarks are my personal views and are not necessarily the views of Telstra Corporation Ltd or of the Public Policy and Communications group that I lead.

2 The legislature, public interest groups and other stakeholders, media, awareness of freedom of information vulnerabilities—all constrain the ability of the public sector executive to do more than shape the process.

3 That means the value of initiatives must satisfy national needs and multiple stakeholders, and that expanded or ‘spill-over’ value is not always self-evident to stakeholders, opinion leaders or the public.
I am a sailor. I love to ‘mess about in boats’, as Kenneth Grahame, the venerable English writer, put it in *The Wind in the Willows*, his 1908 classic that reflected a new way to look at the world. So, living on a large island between the Pacific and Indian Oceans suits me fine.

I used to teach at the Colorado School of Mines and worked a lot on coal exports. I have to say, I love to visit large mines, as I have done in Australia—from the coalmines in Queensland and New South Wales to the awesome gold mine in Kalgoorlie. See Burgess, Phil (ed.) 1981, *Western Coal Exports and Pacific Rim Markets*, (Six volumes), McGraw Hill, New York, December 1981.

The Westminster system, a series of procedures for operating a legislature, is used in most Commonwealth and ex-Commonwealth nations, originating in England and then transported first to the Canadian provinces and other colonies in the mid nineteenth century. It is also used in Australia, India, the Republic of Ireland, Jamaica, Malaysia, New Zealand, Singapore and Malta. The Parliaments of Italy, Germany and Japan take a different approach to parliamentary rule.

In fact, I was amused to read a commentary this past weekend (April 2008) in *The Australian* where the writer talked about the ‘strong’ executive in the United States versus the strong Parliament in Australia. In fact, it is just the opposite. The United States has a relatively weak executive compared with almost any parliamentary system, where the Executive controls the Parliament through the party system, as it does in Australia. Senator Barnaby Joyce gave an insightful talk on this issue a couple of years ago, lamenting how the role of the Senate in Australian policy making had been fundamentally altered and weakened by Australia’s strong party system—a diagnosis that seemed spot on to me. Joyce, Barnaby 2006, Crossing the floor: political hero or renegade?, Address to the Law Institute of Victoria, 26 July 2006, <http://www.barnabyjoyce.com.au/news/default.asp?action=article&ID=170>

That America’s founding fathers were deeply fearful of lodging too much unchecked power in the hands of one person or one institution was expressed most forcefully and persuasively in *The Federalist Papers* by James Madison, Alexander Hamilton and John Jay—and especially in *Federalist* no. 51.

You can also go to an oversight, authorisation and appropriations committee on both the Senate and House sides and then choose between the Republican side or the Democrat side. So, in Congress alone, you have 12 options if you are having a problem with a minister or his or her department. Plus you can always go to the White House staff and to the party apparatus. So, there are at least 14 appeals to a minister’s decisions.

The opportunity provided by the issues campaign for broad public education and broad public participation in the resolution of political issues seems to be missing here, though I understand it has surfaced in the past around important issues—one of which I will discuss later.

Let’s not forget that governments are the only institution in society that can legally take away our freedom and our wealth and, in countries with the death penalty, our life. That’s what sovereignty means. So politics should be rough.

Though it doesn’t get much traction with ministers, public servants or the media, the major threats to Telstra’s future are not Optus and AAPT. The major threats are Google, Yahoo, Microsoft and other offshore enterprises. Achieving a common understanding about what the future holds is one of many important reasons why there should be a steady and continuing dialogue between industry and government.

Just think of what you can do in the digital space today compared with five years ago. Yet, in 2005, we were told there would be no changes to regulations for five years. Five years is a lifetime in a sector driven by changing technology, changing consumer preferences and a changing competitive structure. For example, who would have thought five years ago that by 2009, 99 per cent of consumers and businesses in Australia would have access to 21 Mbps over the mobile Internet called Next G?

In short, we find truth in a free society by mixing it up in the marketplace of ideas—and if we don’t find the truth, then we can at least find an approach or a policy that will provide the greatest good for the greatest number. As Winston Churchill famously said, ‘Democracy is the worst form of government except for all those others that have been tried.’ Actually Churchill was sometimes ambivalent about democracy. He also said, ‘The best argument against democracy is a five-minute conversation with the average voter.’

Critical Reflections on Australian Public Policy


17 Georgina Murray and Douglas Pacheco, cited earlier, cite research by B. Herd estimating a total of 80–90 think tanks in Australia (and six in New Zealand). They employ 1600 people, publish 900 reports and discussion papers and hold almost 600 conferences and symposia a year—but with a collective budget of around $130 million, they are not well funded.

18 I’ve noticed that the media and other opinion leaders sometimes tend to dismiss their findings and conclusions as ‘predictable’. That is unfair and unfortunate, based on what I have seen of their work. These critical issues of government regulation and the impact of advanced communications technologies need to be addressed from every vantage point—and not just from the point of view of the regulator or the government administrator or the competitors. At the end of the day, there is the national interest.

19 These groups are membership organisations and their members include perspectives, skills and information from all points on the compass. They are already playing an important role on issues such as taxes, regulation, workplace relations, infrastructure development and economic and regional development—and they should, because they are uniquely positioned to inform and educate the public about the consequences of policy decisions and regulatory practices and how they affect the ability of the nation’s wealth and job-creating institutions to survive, compete and prosper.

20 Even though the work they do is properly guided by an agenda that grows out of their business and not out of the public policy agenda, groups such as this have a rich base of talent that needs to be enlisted to help educate the public as well as the policy makers and elevate the public dialogue about these critical issues.


22 For background on Frank Lowy’s business career, see Margo, Jill 2001, Frank Lowy: Pushing the limits, Harper Collins, Sydney.


24 In fact, in the United States we have ‘business bestseller’ lists and many listings are books not by academics or journalists but by business leaders.


28 Barnard was president of Pennsylvania Bell and then New Jersey Bell in the Bell system operated by AT&T. Barnard wrote The Functions of the Executive (1938, Harvard University Press, Cambridge). In 1948, he wrote Organization and Management, another widely reviewed and highly regarded book that is still cited today.


30 Hancock, W. K. 1930, Australia, Ernest Benn, London.

31 The use of controversy as a strategy to clarify ideas and the character of people is well established. It’s not just the well-known idea that you have to break eggs to make an omelette. I like to think about it this way: Thomas Aquinas wrote that ‘[c]ivilization is constituted by conversation—that is, by argument’. However, G. K. Chesterton reminded us that arguing was not the same as quarrelling. According to Chesterton, ‘The principal objection to a quarrel is that it interrupts an argument.’ Theologian Michael Novak says ‘civilized people…argue with one another. Barbarians club each other, as if values are mere “preferences”—and reason is nowhere to be found. So when people disagree, we
should welcome argument, and if the other side doesn’t want to engage, well, that tells us something too.’


33 Alger was a nineteenth-century author of more than 100 ‘dime novels’ recounting rags-to-riches stories celebrating how the down and out might be able to achieve the American dream of wealth, success and social standing through hard work, courage, determination and concern for others.

34 I attended the first school in Lafayette, Indiana, to have an electronic intercom. It was a big deal—not unlike today, where we have technology looking for content.

35 See the FTTN tender RFP, Sections 11.1 and 11.2.