



14 July 2017

Committee Secretary
Senate Environment and Communications Legislation Committee
By Email: ec.sen@aph.gov.au

Dear Senators,

Inquiry into the Telecommunications Legislation Amendment (Competition and Consumer) Bill 2017 and Telecommunications (Regional and Broadband Scheme) Charge Bill 2017

nbn welcomes the opportunity to provide input to the Senate Select Committee's review of the *Telecommunications Legislation Amendment (Competition and Consumer) Bill 2017* and *Telecommunications (Regional and Broadband Scheme) Charge Bill 2017* (the **Bills**). To assist the Committee in considering the Bills, and the accompanying industry response, we think it is necessary to highlight the following key points:

1. It is important that a Statutory Infrastructure Provider (**SIP**) obligation provides consumer access to superfast broadband services, but does so in a way that allows for the timely and efficient completion of the **nbn**TM network.
2. The inclusion of business services in the funding scheme is critical to the effective operation of the Regional Broadband Scheme (**RBS**).

We consider that the Bills address these points adequately and, in light of the industry discussion that has followed the introduction of the legislation into Parliament, note our support of these aspects of the Bill.

SIP obligation and completion of the nbnTM network

The SIP legislation will play an important role in providing industry and consumers with certainty that all Australian premises will be able, on reasonable request, to connect to infrastructure that supports the delivery of superfast broadband services.

The Bill reflects the Government's clear intention that premises in Australia have ready access to superfast broadband, however, it also acknowledges the practical reality, important to **nbn** as a SIP, that there may be limitations to the provision of access in some instances. The Bill therefore requires a SIP to connect premises to a qualifying network on reasonable request from a carriage service provider. This concept of reasonableness will ensure that **nbn** responds appropriately to RSP requests (on behalf of an end user) for a superfast broadband connection where the network is available, while acknowledging there may be instances where **nbn** is constrained in its ability to meet a particular request or where multiple requests are made unreasonably for connections to a premises.



The SIP obligation should not delay completion of the network or add further cost and complexity to the rollout or the ongoing operation of the network. Indeed, in making its recommendation to Government that **nbn's** connection and service delivery obligations be enshrined in legislation, the Vertigan Panel recognised that it would be undesirable if the imposition of such an obligation was to disrupt the rollout of the network.¹

In this context, the obligation as drafted – by conferring SIP responsibility on **nbn** as it declares areas ready for service and leaving timeframes for further consideration – strikes the appropriate balance between consumer and industry certainty and maintains the necessary flexibility for **nbn** to rollout the network to Australians as soon as possible.

Business services and the RBS

As noted in the explanatory memorandum, the purpose of the RBS is to support fixed wireless and satellite services supplied by **nbn**. Including business services in the funding base is a critical component of the RBS. Failure to include business services will mean that the contributions of residential services would be required to fund the losses **nbn** incurs to serve regional and rural Australia. This is not desirable, efficient or sustainable relative to the outcomes of the proposed arrangements.

The internal opaque cross subsidy that was originally modelled to support the fixed wireless and satellite networks assumed that:

- **nbn** would be the primary fixed network operator supplying services to both residential and business customers; and
- revenue from the **nbn** fixed line network as a whole, not just the residential market, would be used to subsidise fixed wireless and satellite services.

Moving to an industry wide funding model recognises that RSPs who target low cost areas should contribute to the funding of the higher cost areas which **nbn** is responsible for connecting. These low cost areas will include both business and residential customers. It is illogical that a residential connection in a low cost area will pay the RBS but a business connection in the same low cost area will not.

With growth in the competitive fixed line market and the proposed removal of level playing field obligations in relation to small business services, the importance of including business services in the funding base is heightened. While the changes to Part 8 of the *Telecommunications Act* support a central tenet of the Government's policy (infrastructure competition), it is important that the financial implications of this competition are understood and that loss making services remain adequately funded.

¹ *National Broadband Network – Market and Regulatory Report*, pp. 88-89



nbn notes that a number of industry players have objected to the introduction of the RBS on the basis that it extends to business / enterprise services. These parties claim that the RBS as proposed extends beyond **nbn**'s residential remit.²

These claims are misleading. In addition to the coverage targets that **nbn** has been provided for residential and business premises (which does not distinguish between small business and larger enterprise customers), **nbn**'s Corporate Plans and product mix reflect the fact that the network has been designed to serve all types of customers passed by the **nbn**TM network. Additionally, the White Paper process documented in the Definitive Agreements and the Telstra Migration Plan specifically recognise **nbn**'s intention to develop wholesale business-grade services and that Telstra would disconnect retail business services supplied using special services from its legacy copper network as the capabilities were made available on the **nbn**TM network.

nbn reiterates the need for the inclusion of all business services in the RBS to adequately subsidise the loss making rollout of satellite and fixed wireless networks, noting the important contribution that these services will make to ensuring affordable superfast broadband services are available to those in regional and remote areas.

Yours sincerely

JAMES ENDRES

General Manager, Regulatory Strategy

² For example, see: Optus Submission to Department of Communications and the Arts , paragraphs 37 & 38 and Telstra Submission to the Department of Communications and the Arts, p.11