



Dissenting Report by Coalition Members and Senators

NBN's Special Access Undertaking and Wholesale Broadband Agreements

We note the withdrawal of NBN Co's Special Access Undertaking (SAU) to the ACCC, and the lodgement of a new SAU, is a unique opportunity for NBN Co to reconsider the level of its planned investment and hence reduce the 'flexibility' it needs to recover invested capital by increasing imposts on end users.

Business journalist John Durie noted in an article that the aggressive SAU terms sought by the NBN are virtually without precedent: One member comments the amount of discretion being sought by NBN boss Mike Quigley would make even the Telstra of old blush."¹

There are at least three major problems with the NBN Co's SAU:

- The price constraints are not binding, and increased data volume usage will lead to significant price increases. The NBN has also sought to exempt many of its product offerings from the undertaking.
- The NBN has made no service level assurances to RSPs.
- There is no scope for ACCC or any other external scrutiny of NBN Co's planned network to determine whether it is prudent or 'gold plating'.

The NBN Co is expected to earn a return of 7 per cent on the amount invested in its network. Yet the Government prescribed the most expensive possible technology for 93 per cent of the network and never permitted NBN Co any scope

1 <http://www.theaustralian.com.au/business/opinion/nbns-access-plan-is-set-to-be-rejected-by-regulator/story-e6frg9io-1226401686397>

to reduce its capital spending to more prudent levels where this was possible (such as by using a fibre-to-the-node architecture where this was an economically rational choice).

Recommendations

To avoid confusion with the wording of Recommendation 5 of the main report (3.91), the minority proposes the recommendation state: “The NBN Co Wholesale Broadband Agreements include service level assurances that allow RSPs to meet their statutory customer service guarantees.

The minority recommends that as part of ongoing consultation with the ACCC, the NBN Co’s instructions from Government are expanded to allow it to explore ways to invest its capital more prudently and reduce the overall cost of the network.

The minority recommends the Government instruct NBN Co to submit plans for alternative network architectures with estimates of cost of these per premise to the Productivity Commission, to form the basis of a rigorous cost-benefit analysis.

Migration to the NBN

We note migration to the NBN has been weak, reflecting the fact that few applications exist to take advantage of 100mbps bandwidth and residential households are mostly unwilling to pay any significant premium for increased bandwidth.

In Tasmania, for instance, the NBN added only 100 customers during the past year and take-up rate is still only 18 per cent.²

The NBN Co has created significant financial incentives to encourage migration from existing networks to the NBN. The Government instructed the NBN Co to set initial prices to be comparable to those in the market at the moment for ADSL2+ products. Synergies Consulting notes this increases the risk profile of the NBN business case:

“The risks of having to price to ‘meet the market’ in accordance with government expectations, are best managed by providing NBN Co with a degree of pricing flexibility.” (Available online [here](#), p.9)

The Government has also announced the Telecommunications Universal Service Management Agency will “provide financial assistance so that any reasonable

2 <http://www.theaustralian.com.au/business/in-depth/take-up-rate-claims-misleading/story-e6frgaif-1226383973431>

connection costs” are covered for RSPs to switch voice-only customers to the NBN if these customers did not migrate in the first 12 months of NBN availability.

This will create a significant financial burden for TUSMA, given for instance that Telstra charges \$179 for in-home support when switching to the NBN:³

“Telstra Plus provides you with expert help on a wide range of services not available through our standard support services, such as networking your T-Box®, T-Hub® to other non-Telstra devices – such as your Mac, PC, tablet, printer or game console. You can choose over-the-phone support from \$99 or in-home support from \$179.”

In the 2011-12 financial year, the Department spent \$20 million in advertising to ‘assist migration’ to the NBN. This amount appears excessive and has so far produced underwhelming results, given take-up in places such as Tasmania.

Recommendations

The minority recommends that the Government promptly announces a per-premise price on payments to RSPs to smooth transition to the NBN. It should explain how much this is likely to cost TUSMA and how much of its annual budget this will constitute.

The minority recommends the Department explore other ways to encourage the transition to superfast broadband. This includes less disruptive network architectures to end users (such as a fibre-to-the-node architecture).

Given ABS figures show the group least likely to have superfast broadband are the lowest income brackets, the minority recommends the Department study the extent to which infrastructure-based competition encourages price competition by wholesale providers, and sets an anchor for entry-level pricing. The Department should explore policies to encourage continued competition of this form.

The Department review the efficiency of its spending campaign in promoting the NBN to assess its efficiency.

Rollout of the NBN

The minority notes the desirability of providing affordable broadband upgrades to all Australians as soon as practicable, particularly to households in areas with poor broadband access.

3 <http://www.telstra.com.au/bigpond-internet/national-broadband-network/faqs/>

Under the upgrades promised by the NBN during the next 12 months, 60 per cent of suburbs are in Labor electorates compared to under 35 per cent in Coalition electorates. In NSW and Victoria, Labor suburbs will account for 80 per cent of the rollout.⁴

The minority notes that the NBN Co has not sought to investigate which suburbs are currently underserved nor is it attempting to upgrade such suburbs as a matter of priority.

The minority notes a detailed rollout schedule, uploaded on the NBN Co website on June 15,⁵ which includes 'The date that NBN Co expects to be ready to connect end users from Access Seekers within this Rollout Region.'

The schedule appears to show the NBN fibre will pass 236,900 'brownfields' households by June 2013 and 20,995 'greenfields' households. This is a total of 257,895 premises in addition to the approximately 20,000 premises already passed by fibre.

This contrasts with the forecast in the Corporate Plan released in December 2010, which forecast the fibre network would pass 950,000 brownfields households by June 2013 and 319,000 greenfields households by June 2013. Therefore the NBN fibre rollout over its first three financial years will achieve only 24 per cent of its publicly stated brownfield target and 7 per cent of its greenfield target.

Perhaps the most concerning area of delay is in the area of greenfields. As of January 1, 2011, the NBN Co had only 110 active services in greenfields areas. More recently, the NBN Co announced that it will not renew its relationship with subcontractor Fujitsu, pointing to significant delays in this area.⁶

Recommendations

The minority recommends the Government investigate ways of speeding up the rollout by using existing infrastructure where possible and deploying different architectures (such as fibre-to-the-node) where appropriate. The Department should undertake a study of cost and timing of deployment in comparable economies of various architectures which should inform a rigorous cost-benefit analysis of options for broadband upgrades.

4 <http://www.theaustralian.com.au/business/in-depth/nbn-pre-poll-rollout-tilted-to-labor-seats/story-e6frgaif-1226383981350>

5 <http://www.nbnco.com.au/getting-connected/service-providers/network-rollout.html>

6 <http://www.crn.com.au/News/305647,nbn-co-cuts-ties-with-fujitsu-over-greenfield-delays.aspx>

Given the NBN Co is experiencing a lull in activity in greenfields fibre installation, the Department should revisit policy proposals to promote competition in greenfields areas and encourage private providers to invest in fibre networks.

Advertising on the NBN

The Department has provided \$20 million in the current financial year to “improve public understanding, address misconceptions and provide updated information about the National Broadband Network” (Budget Paper 2, p.95).

The NBN Co revealed in Senate Estimates that its own total advertising spend in 2011-12 was \$8.12million including \$3.659 million during a four week period for the three-year rollout announcement.

Given that the NBN Co revealed in Senate estimates, it has less than 4,000 customers on its fibre network, these figures appear excessive.

Recommendations

The Government and NBN Co conduct a review of its advertising spending for effectiveness and measure this against uptake and other relevant metrics. Expenditure should be reduced unless it can be demonstrated as providing value for money.

The NBN Co should refrain from advertising Stage One of the fibre rollout in suburbs and regional areas which have not been included in the Stage One schedule.

Hon Malcolm Turnbull MP
Member for Wentworth

on behalf of the Coalition Members of the Joint Committee
on the National Broadband Network