

# Additional Comments from Coalition Senators

## Context

The TUSMA reform Bills must be considered in context, that is, as part of the rollout of the National Broadband Network to replace most of Telstra's copper network.

The NBN has been characterised by secrecy, overspending, delays, and waste. The Government's deal with Telstra to facilitate the rollout of the NBN is complicated and kept under wraps, making it impossible for the Parliament or voters to determine whether the deal represents value for money. Indeed, the Government has systematically sought to prevent effective scrutiny of the entire NBN project.

Coalition Senators are also mindful that these Bills do not materially impact on the delivery of the USO itself. Instead, the Bills create a framework for the administration of contracts that are already in place to deliver the USO and other public interest telecommunications services some years from now.

It is in this context that the Committee has been tasked to consider the TUSMA reforms.

## Deficient Consultation

Coalition Senators are convinced by evidence that consultation in relation to USO reform has been deficient.

Notwithstanding the assertion by the Department of Broadband, Communications, and the Digital Economy (DBCDE) that a number of rounds of consultation took place in relation to the broader issue of USO delivery, it is clear from the Government's NBN policy statement of 20 June 2010<sup>1</sup> that its model for delivery of the USO in an NBN environment was substantially finalised at that time.

It is also clear the TUSMA model for the delivery of the USO was developed without any consideration of alternative options or objective evaluation of value for money as part of a broader set of private negotiations between Telstra and the Government over the NBN. DBCDE noted:

These measures were agreed to support the government's broader package of telecommunications reforms, implementation of the NBN and, most importantly in this context, the structural separation of Telstra.<sup>2</sup>

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1 [www.dbcde.gov.au/broadband/national\\_broadband\\_network/nbn\\_policy\\_statements](http://www.dbcde.gov.au/broadband/national_broadband_network/nbn_policy_statements).

2 Mr Daryl Quinlivan, Deputy Secretary, Infrastructure Group, Department of Broadband, Communications and the Digital Economy (DBCDE), *Proof Committee Hansard*, 2 February 2012, p. 35.

Telstra will receive \$2.7 billion over 10 years for delivering the USO for standard telephone services and payphones, significantly more than it would have received in the pre-NBN environment. This windfall assisted in obtaining Telstra's agreement to the broader NBN deal. It was clearly not in the Government's interests to permit third party scrutiny or invite industry input as the USO agreement was negotiated and settled.

Far from settle these concerns, the Department exacerbated them when answering questions about whether future payments from TUSMA to Telstra under the Telstra Agreement were a financial gain to Telstra. DBCDE said:

This is a vexed question that you have obviously had quite a few people raise with you, as they have with us over the full course of these negotiations

...

We think that we did a good job in negotiating a price with Telstra. We have that independent assurance that we were in a realistic range for costing the services. As to the actual cost of delivering them, all I can say is that the negotiations with Telstra were very difficult. Whether there is a margin in there for Telstra I simply do not know. Telstra would not tell us and they did not tell you. Nobody else knows, so I cannot answer your question definitively. All I can say is that we did our best to negotiate a minimum price and we had some independent reassurance.<sup>3</sup>

The total lack of transparency in developing the TUSMA model and negotiating an agreement with Telstra to contract to deliver the USO is of serious concern, although hardly a surprise given the Government's track record of opacity and back room deals when implementing its broadband policy.

### **Lack of Cost Constraint**

The Coalition is concerned about the potential for future increases in TUSMA's cost as a result of increasing administrative overheads and expansions in the size and scope of programs under its control.

TUSMA has no incentive to constrain costs. From 2014–15, the Government's contribution to TUSMA will be a flat \$100 million, with costs above that level to be raised by an industry levy. Any blowout in TUSMA's costs will therefore be borne by the telecommunications industry, and ultimately by consumers.

Although TUSMA will be constrained by its prescribed policy objectives, it is easy to envisage pressure being applied in the future to expand the public interest telecommunications services for which TUSMA may become responsible.

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3 Mr Daryl Quinlivan, Deputy Secretary, Infrastructure Group, DBCDE, *Proof Committee Hansard*, 2 February 2012, p. 37.

For instance, ACCAN has proposed a Disability Telecommunication Service. It is not unreasonable to expect that such a service, if it becomes policy and is implemented, may be added to TUSMA's responsibilities, consequently increasing its cost base and cost to telecommunications consumers.

TUSMA will also take on certain responsibilities currently performed by the Australian Communications and Media Authority. Coalition members are concerned that lessened responsibilities at ACMA will not be accompanied by a corresponding reduction in its budget.

### **Unnecessary Bureaucracy**

In the same vein, Coalition Senators question the need for an entirely new bureaucratic entity to administer the USO (particularly given the Government has largely removed the need for TUSMA to make decisions about contracts for the next 20 years).

ACMA has administered the USO for some years, and surely has the expertise to continue to do so, even as the USO moves to a contractual model and away from the current regulatory approach. The Government has at no point provided any justification for a new entity to administer public interest telecommunications services.

The Coalition is concerned the creation of a new bureaucracy will simply lead to more complexity and unwarranted costs which will ultimately be passed on to consumers.

### **Support for Recommendations 1 and 2**

The Coalition specifically supports the Committee's recommendations 1 and 2, which respectively recommend closer ties between TUSMA and the TIO, and the inclusion of a consumer advocate as a TUSMA member.

### **Recommendation**

**The Coalition recommends more stringent measures be put in place to ensure that any policy decision to impose responsibility for additional public interest communications services on TUSMA is justified, reasonable, and represents the most cost effective available means to achieve the specified objective.**



**Senator Mary Jo Fisher**



**Senator Simon Birmingham**



**Senator Bridget McKenzie**

