Telstra Corporation Limited

Submission to the Senate Standing Committee on the Environment, Communications and the Arts

Submission regarding the Telecommunications Legislation Amendment (Fibre Deployment) Bill 2010

6 April 2010

Executive Summary

The Telecommunications Legislation Amendment (Fibre Deployment) Bill ("**the Bill**") is the legislative means by which the Government proposes to implement its Greenfields policy to require "*all new estates to install fibre optic networks to homes and workplaces*" from 1 July 2010. The new estates fibre policy is a key element of the Government's National Broadband Network ("**NBN**") plan to deliver fibre to the premises ("**FTTP**") to 90 per cent of the population. Over the eight year rollout of the NBN, an estimated two million new homes and business premises will be built across Australia. It is important that the Bill provides a clear, predictable framework for delivery of the Government's policy.

While the Bill proposes to prohibit the installation of non-fibre fixed lines, it does not actually propose to mandate the installation of fibre optic networks. Previously, the Government stated that the Commonwealth's Constitutional telecommunications powers would not support a positive requirement to install fibre and that this would have to be left to State and Territory planning laws. With less than three months to the 1 July 2010 start date, State and Territory Governments are unlikely to have fibre obligations in place in time.

The Explanatory Memorandum ("**EM**") to the Bill now states that State and Territory laws are complementary but not strictly necessary. Telstra disagrees. Without a clear mandate to install fibre infrastructure, developers retain the option to proceed with developments without the installation of any fixed line infrastructure at all.

To ensure Government policy objectives are met and certainty is delivered to both carriers and developers, the Commonwealth should utilise its full range of Constitutional powers. This may include the use of the corporations power, for example, to impose a positive requirement on developers to install fibre. Although not all developers are incorporated, this would likely capture the most significant developments and may prompt the States and Territories to themselves enact legislation. To alleviate developer concerns about potentially excessive contributions, the Minister could cap the quantum of contribution that carriers could request from developers, and align this with the scope of the non-fibre prohibition.

Without a positive requirement on developers to deploy fibre, residents in new developments may end up having to wait until the NBN rolls through their area for fixed line infrastructure. Although Telstra has a Universal Service Obligation ("**USO**") to supply voice telephony to end users, Telstra must fulfil this obligation using the most cost effective technology available. Fibre is not generally economically viable without a developer contribution; copper will be prohibited; and so in many circumstances wireless will be the best short term option. At this stage, it is unclear whether NBN Co intends or will be required to make these new development areas a priority for rollout.

The Bill proposes that, as an alternative to the non-fibre line prohibition, the Minister may instead apply a prohibition on the installation of passive infrastructure, such as ducts, that is not "fibre-ready". In other words, it is enough to install empty ducts capable of accommodating fibre in the future. In Telstra's view, the fibre-ready requirement does not meet the Government's stated intention of ensuring fibre is installed in new developments and merely exacerbates the risk of residents having to wait for fixed line infrastructure. Telstra is not in a position to pull copper through the empty fibre-ready ducts because it makes no economic sense to do so - the copper lines will be superseded by fibre long before the capital investment in them can be recovered through end user charges. Developments that the Government designates as being subject to the lesser "fibre-ready" requirement are likely to have end user voice and data services supplied via wireless until NBN Co's rollout arrives.

In Telstra's view, the fibre-ready rule should be limited in application to only those areas where there is uncertainty as to whether they will be part of NBN Co's mandate to deliver

fibre to 90 per cent of the population or whether they will be served by a wireless/satellite solution. These areas are also more likely to be those where the developer contribution is over the cap.

The Bill includes a bare power for regulations to be made setting up an access regime for fibre-ready infrastructure in development areas but does not set out principles or guidance as to the kind of regime that would apply. Prior to release of the Bill, Telstra had indicated that it may be prepared to continue to lay such passive infrastructure pending clarity of the overall policy. Now these passive assets are at potential risk of being uneconomic due to the application of this undefined access regime. Part 5 of Schedule 1 of the Telecommunications Act already contains a facilities access regime which applies to carriers who own this type of infrastructure. This regime should be extended to non-carriers rather than creating a new regime at the complete discretion of the Minister.

It is also unclear whether the non-fibre prohibition will apply only to the "first-in" network or to all networks deployed in a development area. The Government's fibre objectives would appear to be met if there is at least one fibre network, while permitting other technologies so end users can have choice between competing networks. For example, an "all fibre" requirement could prevent the extension of Telstra's, Optus' or Transact's HFC networks into new developments to deliver pay TV.

The final concern for Telstra is that the Bill's proposed powers for subordinate instrument extend potentially to the technical specifications required of the infrastructure. The EM envisages that Ministerial powers to set specifications could be extended to the business fibre market. Direct fibre for businesses is already a highly competitive and dynamic market. There is no case for Government intervention to prescribe specifications in this market, and the prospect of Ministerial proclamation could discourage investment and innovation in this already competitive market.

As is evident from the above, the Bill only provides a framework for the exercise of a series of broad Ministerial discretions which will determine how the policy applies in practice. While the EM does say that draft subordinate legislation will be released in parallel with debate on the Bill, there is an urgent need for greater clarity on the Government's intended application of its policy to provide certainty for residential and commercial developments across Australia. One of the important considerations for which further detail is required is the operation and quantum of the developer contribution cap which will determine the scope of the overall policy.

In summary, Telstra supports the Government's vision of fibre in all new developments. However, the Bill in its current form is generating uncertainty for State and Territory Governments, local councils, developers, residents and other end users and for carriers, including Telstra. It is important that the issues causing this uncertainty are addressed as quickly as possible and are not allowed to continue unresolved in the months and years to come.

Traditional approaches to telecommunications infrastructure in Australia

Copper-based infrastructure

Telstra estimates that it installs infrastructure in approximately 90,000 Greenfields building lots and 90,000 building lot redevelopments per annum. This is in line with the estimate in the EM of 150,000 new dwelling constructions and 60,000 other premises constructed per annum[1]. Prior to the Government's fibre announcement, Telstra's approach, which has been in place for many decades, was not to charge developers to install copper based infrastructure[2]. Telstra could take this approach because it expected the infrastructure to be in place for a long timeframe, say 20 to 30 years, over which Telstra would recoup the high upfront capital costs from the users of services supplied over that infrastructure. This has meant that Telstra has not needed to claim for any cost shortfall by way of USO payments (other than those developments in the traditional high cost areas).

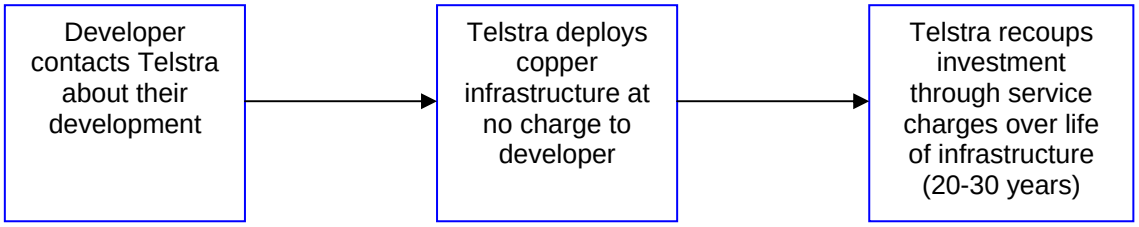

Figure 1: Traditional approach to installing copper based infrastructure

Telstra has continued this method of installing infrastructure in new developments through the emergence of competition in the Australian telecommunications market. Since 1991 it has been open to any competitor to enter this market. However, in most cases our competitors have chosen to use the access regime to provide services to end users in new developments, rather than enter the copper deployment business themselves.

Fibre-based infrastructure

Over the last five or so years, a market for FTTP in new estates has emerged and Telstra estimates that FTTP is deployed within approximately 10 per cent of all new developments. In these cases, the developer will typically seek competitive bids for FTTP. Due to the cost of fibre being higher than the cost of installing copper, service providers will generally charge developers an amount per lot (usually in the order of $1,500 to $2,500 per lot depending on the individual circumstances of the development). The service provider will then absorb the remainder of the costs which the service provider anticipates will be recouped from service charges. Telstra is but one of many active participants in this competitive market.

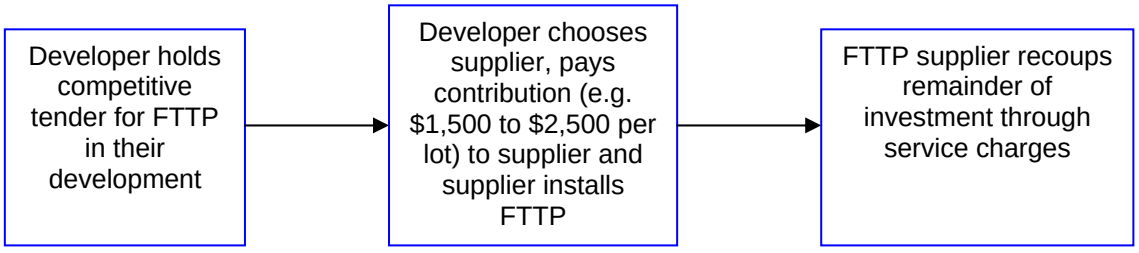

Figure 2: Developer contribution model to fibre based infrastructure

[1] EM to the Bill, page 5.

[2] Telstra does require the developer to provide open trenching, which the developer would need to provide in any event for other utilities such water. Telstra may also require the developer to provide locations for infrastructure but these too are often shared with other utilities.

Fibre Deployment Bill prohibition of non-fibre but no fibre mandate

The Bill proposes to prohibit the traditional approach of installing copper based infrastructure in new developments as set out in Figure 1 above[3]. However, it does not propose to mandate the installation of fibre optic networks by anyone. Previously, the Government stated that the Commonwealth's Constitutional telecommunications powers would not support a positive requirement to install fibre and that the States and Territories would have to legislate this positive requirement in their planning laws. With less than three months to the 1 July 2010 start date, State and Territory Governments are unlikely to have fibre obligations in place in time.

The EM to the Bill now states that State and Territory laws are complimentary, but not strictly necessary[4]. Telstra disagrees. Without a clear mandate to install fibre infrastructure, developers retain the option to proceed with developments without the installation of any fixed line infrastructure at all. To prevent this, the Commonwealth should utilise its full range of Constitutional powers. Telstra considers that the power over telecommunications is sufficiently broad to support a direct requirement on developers to install fibre or a requirement on State and Territory planning authorities not to approve developments unless they have fibre infrastructure. If there are any doubts about the extent of the telecommunications power, the Commonwealth could rely on the corporations power. Although not all developers are incorporated, the fibre mandate would capture the most significant developments and may prompt the States and Territories to themselves enact legislation.

In order to alleviate developer concerns about potentially excessive contributions, the Minister could cap the quantum of contribution that carriers could request from developers, as the limiting factor in the specification of the non-fibre prohibition. This would work as follows:

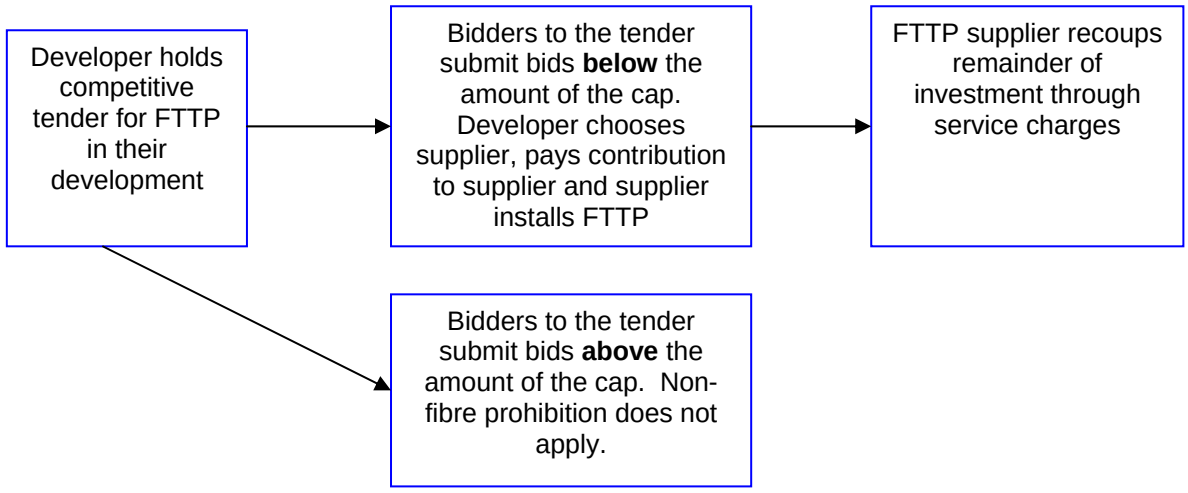

Figure 3: Proposed competitive fibre model with a safeguard cap.

No mandate may mean no fixed infrastructure

It is unclear what the Government expects will happen, in the absence of a mandate to supply fibre, if a developer does not supply fibre in their new development even if the development falls squarely within the scope of the policy (i.e. the non-fibre line prohibition

[3] The Bill proposes that exceptions to this general rule may be permitted, see proposed subsections 372B(5) and (6), 372C(5) and (6) and page 35 of the EM.

[4] Page 2

applies to that development). Presumably, that development will be left to wait for fixed line infrastructure once the NBN rolls through their area.

In the meantime, a significant issue that faces Telstra due to the absence of any mandate on developers to install fibre, is that under its USO Telstra is required to supply voice telephony to end users (though not to developers). A voice channel generally requires only 64kbps which is only a tiny fraction (1/156) of the capacity of any 100 Mbps FTTP network. Telstra must fulfil its USO through the most effective and economical means. Fibre deployment, without a developer or Government contribution, is not a viable option. If copper is prohibited, in many circumstances wireless will be the best short term option. Such a situation should not be permitted to continue indefinitely but we are unaware of whether NBN Co intends, or will be required, to make such new development areas a priority for rollout.

A similar concern arises in respect of the lack of a long term infrastructure solution for those developments where developers do hold a tender for the supply of fibre but where the amount of the developer contribution is above the amount of the proposed safeguard cap. It may be that these areas will fall outside of the NBN FTTP footprint and will be required to be served by wireless/satellite over the long term or will eventually be captured by NBN Co's FTTP rollout plan. Again, information on these important issues is yet to be forthcoming from the Government.

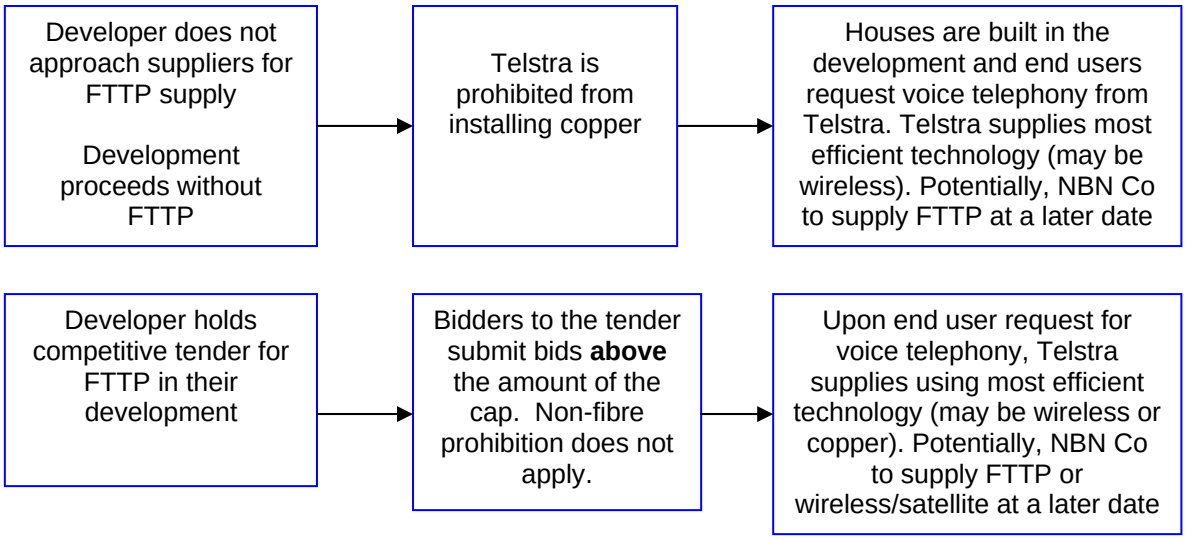

Figure 4: Scenarios for USO supply where developer does not install fibre

Fibre Deployment Bill prohibition of passive infrastructure which is not "fibre-ready"

The Bill proposes that, as an alternative to the non-fibre line prohibition, the Minister may instead apply a prohibition on the installation of passive infrastructure, such as ducts, which is not "fibre-ready", implying that it is sufficient to install empty ducts capable of accommodating fibre in the future. As such, the fibre-ready requirement does not meet the Government's stated intention of ensuring fibre is installed in new developments. It also suffers from the same defect as the prohibition on non-fibre lines: framed as a prohibition, it does not actually achieve the installation of fibre-ready infrastructure. This is particularly concerning as installing this kind of infrastructure after the time when the main utilities are installed in a new development or retro-fitting passive infrastructure to be fibre-ready would be a costly exercise (the EM itself puts this last scenario at $567 million per annum[5]).

[5] Page 13

The scenario of new developments being only "fibre-ready" exacerbates the risk of residents having to wait for fixed line infrastructure. Telstra is not in a position to pull copper through the empty fibre-ready ducts. As the EM itself notes, the combined costs of installing copper and then later installing fibre are substantially higher than the costs of installing fibre in the first place[6]. Therefore, developments that the Government designates as being subject to the lesser "fibre-ready" requirement are likely to have end user voice and data services supplied via wireless until NBN Co's rollout arrives. Telstra is unaware of whether NBN Co intends to make these areas a priority for its rollout[7].

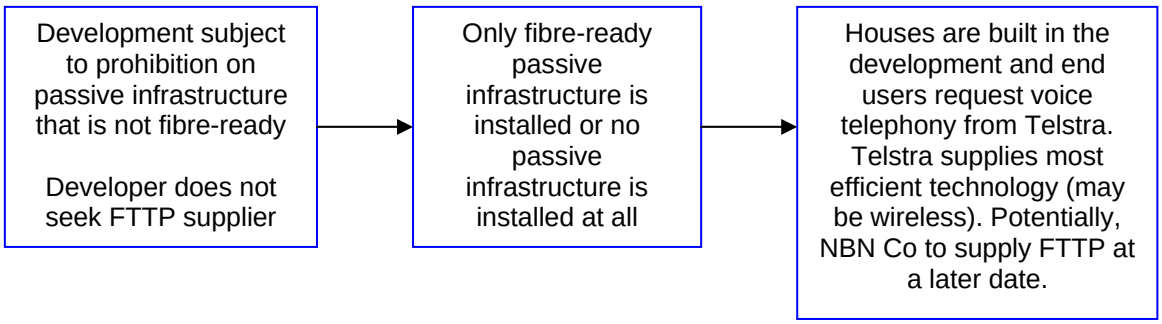

Figure 5: Scenario for USO supply where no or only passive fibre ready infrastructure is installed

In Telstra's view, the fibre-ready rule should be limited in application to only those areas where there is uncertainty as to whether they will be part of NBN Co's mandate to deliver FTTP to 90 per cent of the population or whether they will be served by a wireless/satellite solution. These areas are likely to be those where the developer contribution is over the cap. However, the designation of these areas appears to be difficult without significant further detail on the rollout plans of NBN Co's fibre build.

Access regime for fibre-ready infrastructure

The Bill includes a bare power for regulations to be made setting up an access regime for fibre-ready passive infrastructure in development areas but does not set out principles or guidance as to the kind of regime that would apply. Unlike other statutory access regimes (Part IIIA or Part XIC of the *Trade Practices Act 1974*), the Bill fails to set out access pricing principles, reasonable limits on the obligation to provide access such as technical or operational limits on access, procedures for the resolution of disputes and appeal rights. All this is to be left to the Minister.

Prior to release of the Bill, Telstra had indicated that it may be prepared to continue to lay such passive infrastructure pending clarity of the overall policy. In that way, no areas would be without the underlying basic infrastructure which would be extremely costly to put in after the time when other utilities in a development are being laid (i.e. when trenches are open).

Due to the application of this unknown access regime, even these assets are at significant risk of being uneconomic. As the estimates in the EM indicate, putting passive infrastructure into a broad range of developments across Australia will cost many hundreds of millions of dollars. Telstra requires some assurance that any consequential access regime would enable Telstra to recover those costs.

It is also unclear how this new access regime fits with the existing duct access regime under Part 5 of Schedule 1 of the *Telecommunications Act*. The existing regime requires carriers to

[6] Page 14.

[7] Page 17 of the EM states (emphasis added): "To the extent developments are not supplied with FTTP, it is envisaged NBN Co would ***eventually*** connect them as part of its national rollout."

provide access to ducts – whether in new development or other areas. The new access regime could require non-carriers, such as electricity companies, to provide access to ducts in new developments. However, it is unclear whether access to carrier owned ducts would be addressed under the access regime proposed by the Bill or under the existing access regime in Part 5 of Schedule 1 and how consistency will be maintained between the two regimes inside and outside new development areas.

To avoid these issues, the regime in Part 5 of Schedule 1 should be extended to non-carriers rather than a new regime created at the complete discretion of the Minister.

Will non-fibre be prohibited after fibre is installed?

It is unclear whether the non-fibre prohibition will apply only to the "first-in" network or to all networks deployed in a new development. The Government's fibre objectives would appear to be met if there is at least one fibre network, while permitting other technologies so end users can have choice between competing networks. Examples of where an "all fibre" requirement could prevent service delivery include:

- the extension of the Telstra, Optus or Transact HFC networks into new developments to deliver pay TV;
- the use of copper for certain "special services" such as metering, security, traffic lights; and
- the use of copper for interconnection with legacy end user technology such as PABX's.

The EM notes that the Bill provides that the Minister may exempt the installation of copper lines in similar circumstances[8]. However, in Telstra's view, there is no need for additional lines (that is, lines installed after the initial fibre line), to be subject to the discretion of the Minister in this regard. Service providers should have the right to install whatever infrastructure they wish, consistent with a competitive market and a technology neutral regulatory framework. A particular concern with an ongoing prohibition on non-fibre lines is in respect of re-developments (within brownfields areas) that will be otherwise surrounded by traditional copper infrastructure for many years to come. It is not clear how a service provider is going to know whether the development is subject to such a prohibition or not.

Extension of regulation to the competitive direct fibre market

The final concern for Telstra is that the Bill's proposed powers for subordinate instrument extend potentially to the technical specifications required of the infrastructure. Telstra does see a need for the passive infrastructure to be "fibre-ready" and for "minimum" service requirements. However, the EM envisages that Ministerial powers to set specifications could be extended to the business fibre market[9]. Direct fibre for businesses is already a highly competitive and dynamic market as summarised below. There is no case for Government intervention to prescribe specifications in this market, and the prospect of Ministerial proclamation could discourage investment and innovation in this already competitive market. The direct fibre market in Australia includes:

- **Telstra:** fibre connecting approximately 25,000 premises in the Sydney, Melbourne, Brisbane, Hobart, Perth, Adelaide and Canberra metro areas;

[8] See page 35.

[9] See page 34.

- **Optus:** 1,800kms of aggregation fibre connecting over 5,500 buildings in CBD Sydney, Melbourne, Brisbane, Perth, Adelaide, Hobart and Canberra;

- **AAPT:** 800kms of fibre in CBD and selected metropolitan Brisbane, Sydney and Melbourne, connecting 600 buildings without using Telstra ducts;

- **Amcom:** 1,360kms of CBD and metro fibre in Perth, Adelaide and Darwin connecting 994 buildings in total;

- **NextGen:** approximately 1,000kms of CBD fibre connecting to about 500 buildings in Sydney, Melbourne (extensive), Brisbane, Adelaide (extensive) and Perth; and

- **Pipe (TPG):** 1,300kms fibre to Brisbane, Sydney, Melbourne and 550 buildings passed[10].

Framework but no detail

As is clear from the above, the Bill only provides a framework for the exercise of a series of broad Ministerial discretions which will determine how the policy applies in practice. Telstra acknowledges the need for flexibility, given the wide variety of new housing and commercial developments around Australia. However, developments to be constructed after the 1 July 2010 start date are in the planning stages now. While the EM does say that draft subordinate legislation will be released in parallel with debate on the Bill, there is an urgent need for greater clarity on the Government's intended application of its policy to provide certainty for residential and commercial developments across Australia.

Matters for which clarity is sought include:

- the criteria the Minister will apply to determine which areas will be subject to the non-fibre lines prohibition, presumably by reference to a developer contribution cap together with some minimum size requirement[11]. Details of these size requirements and the operation and quantum of the cap and their interaction are important for this Bill to succeed in achieving its stated aims;

- the criteria the Minister will apply to determine which areas will be subject to prohibition of passive infrastructure which is not fibre-ready;

- what will be the requirements for fibre-ready infrastructure . As NBN Co is likely to be required to provide fibre through the fibre-ready infrastructure, then NBN Co will need to be satisfied that the infrastructure meets its needs. We are not aware of any engagement with NBN Co on this issue;

- how the Bill will apply to developments which are already being planned – and whether this will be applied uniformly across Australia given the differences in State and Territory planning processes;

- which States and Territories are prepared to impose requirements for telecommunications infrastructure in line with the requirements of the proposed legislation and the yet unsighted subordinate instruments, and the timeframes in which this likely to be achieved;

- what are the short and long term arrangements for supplying both voice and data services to those areas which are subject to the prohibitions but for which no infrastructure will be provided by developers?

[10] Sourced from publicly available material from each of these competitors, mainly their websites.

[11] See page 22 of the EM.

- what will be the principles behind the access regime for fibre-ready infrastructure?

- which lines will be excluded from the non-fibre line requirements, in respect of either the first-in or subsequent infrastructure for particular developments?

These details are going to be critical from a compliance, operational and strategic perspective. Telstra is the organisation that will be singularly most affected by these changes. We have substantial operational issues to grapple with in respect of a change in policy of this magnitude including workforce deployment, contractual obligations, forward planning and financial considerations. At this stage, so close to the implementation date, Telstra and other affected parties (competitive fibre providers, the developer community, all levels of Government) will need to act quickly to readjust many operational parameters, potentially at significant cost.

With these risks in mind, Telstra has already made certain adjustments to its planning processes, such as the decision to no longer install copper infrastructure in new developments (while honouring commitments to developers where such deployment is already in train). However, much greater clarity is required for Telstra to adjust all its relevant business processes and practices.

Summary

Telstra supports the Government's vision of fibre in all new developments. However, the Bill in its current form is generating uncertainty for State and Territory Governments, local councils, developers, residents and other end users and for carriers, including Telstra. The Appendix outlines the areas of change that Telstra recommends to the Bill. It is important that these issues that are causing this uncertainty are addressed as quickly as possible and are not allowed to continue unresolved in the months and years to come.

Appendix – Summary of changes Telstra recommends to the Telecommunications Legislation Amendment (Fibre Deployment Bill) 2010

Section	Summary	Issue
General	Lack of compulsion to install fibre	The EM to the Bill now states that State and Territory laws are complimentary but not strictly necessary. Telstra disagrees. Without a clear mandate to install fibre infrastructure, developers retain the option to proceed with developments without the installation of any fixed line infrastructure at all. To prevent this, the Commonwealth should utilise its full range of Constitutional powers. Telstra considers that the power over telecommunications is sufficiently broad to support a direct requirement on developers to install fibre or a requirement on State and Territory planning authorities not to approve developments which will not have fibre infrastructure. If there are any doubts about the extent of the telecommunications power, the Commonwealth could rely on its corporations power: although not all developers are incorporated, the fibre mandate would capture the most significant developments and may prompt the States and Territories to themselves enact legislation. Upon end user requests for services in such developments, Telstra would need to deploy infrastructure to supply voice telephony, but it is unclear how a longer term fixed infrastructure solution would be delivered.
s372D	No clarity around which development areas are captured by the legislation	The classes of developments to which this Bill might apply is very broad and has the potential to cover most construction (including the construction of a "granny flat" on an existing property if the granny flat was to be leased). The Government should provide clarity on the classes of developments that the Bill is to apply. If this is not to be done in the legislation itself, the Government should release draft regulations which can be considered together with the draft legislation as a complete package setting out the Government's new developments fibre policy.
	No clarity around "fibre-ready' infrastructure	The Bill proposes that, as an alternative to the non-fibre line prohibition, the Minister may instead apply a prohibition on the installation of passive infrastructure, such as ducts, which is not "fibre-ready". In other words, it is enough to install empty ducts capable of accommodating fibre in the future. As such, the fibre-ready requirement does not meet the Government's stated intention of ensuring fibre is installed in new developments. This

Section	Summary	Issue
		suffers from the same defect as fibre lines. It is framed as a prohibition and so it does not actually achieve the installation of fibre-ready infrastructure. The fibre-ready rule should be limited in application to only those areas where there is uncertainty as to whether they will be part of NBN Co's mandate to deliver FTTH to 90 per cent of the population or whether they will be served by a wireless/satellite solution. These areas are likely to be those where the developer contribution is over the cap.
s372B & CA	Additional clarity is required around the application of the Bill to sites underway before 1 July 2010	While the Department has been consulting with stakeholders on how to deal with transitional development sites (i.e. those where some form of construction or planning has commenced prior to July 2010), the Bill does not provide any clarity on whether sites where construction has started as at 1 July 2010 will be excluded.
s372B & CA	Minister's discretion	The Minister has broad discretion to: • decide the requirements for fibre ready passive infrastructure; and • define and then change over time the areas that are subject to the non-fibre line prohibition and those subject to a prohibition of passive infrastructure that is not fibre-ready, and those that have no fibre-related requirements at all. The Government should immediately provide clarity on which developments will be subject to which prohibition, if any. The Government also should as a matter of urgency settle the technical requirements for fibre ready passive infrastructure.
s372CA(4)	Access regime	The Bill includes a bare power for regulations to be made setting up an access regime for fibre-ready passive infrastructure in development areas but does not set out principles or guidance as to the kind of regime that would apply. Unlike other statutory access regimes (Part IIIA or Part XIC of the *Trade Practices Act 1974*), the Bill fails to set out access pricing principles, reasonable limits on the obligation to provide access, such as technical or operational limits on access, procedures for the resolution of disputes and appeal rights.

Section	Summary	Issue
		Telstra and other carriers are subject to facilities access requirements (which includes passive infrastructure such as ducts) under Schedule 1 of the *Telecommunications Act*. This existing regime requires carriers to provide access to ducts – whether in new development or other areas. If carriers are to continue to be subject to such access requirements, Telstra welcomes their extension to other owners of underground facilities, such as electricity suppliers. This will ensure a more symmetrical and efficient use of all underground facilities in new developments. However, Telstra is concerned that the approach taken in the Bill: • is unclear whether access to carrier owned ducts would be addressed under the access regime proposed by the Bill or under the existing access regime in Part 5 of Schedule 1; • provides no pricing principles or processes for this new access regime – again, all the details are to be left to the Minister through regulation powers; and • there is a risk of inconsistency when the Schedule 1 access regime applies to a carrier's ducts –either within new developments (which itself is unclear) or in other areas - while this new, undefined access regime applies to ducts within new developments. In Telstra's view, the better course is to utilise the existing underground access regime by applying it to all owners of passive infrastructure in new developments. This could be done through some simple amendments to Schedule 1.
	Clarification on whether the non-fibre prohibition applies only to the "first-in" network	It is unclear whether the non-fibre prohibition will apply only to the "first-in" network or to all networks deployed in a new development. The Government's fibre objectives would appear to be met if there is at least one fibre network, while permitting other technologies so end users can have choice between competing networks. Examples of where an "all fibre" requirement could prevent service delivery include:

Section	Summary	Issue
		• the extension of the Telstra, Optus or Transact HFC networks into new developments to deliver pay TV; • the use of copper for certain "special services" such as metering, security, traffic lights; and • the use of copper for interconnection with legacy end user technology such as PABX's.
s113(3)	Codes and Standards	The Bill gives Communication Alliance (CA) and the ACMA the ability to make codes and standards about the: • design and performance of fibre lines and passive infrastructure in new estates; • performance requirements of fibre lines or facilities used in connection with fibre lines in real estate developments; • characteristic of carriage service using fibre lines; and • design and performance of carriage service providers over any fibre lines (not just new development sites) but also the NBN or Telstra business fibre networks. These categories are very broad and in particular would allow CA and the ACMA to determine the characteristics and quality of service of any services provided over Telstra and competitor business fibre networks. Direct fibre for businesses is already a highly competitive and dynamic market. There is no case for Government intervention to prescribe specifications in this market, and the prospect of Ministerial proclamation could discourage investment and innovation in this already competitive market