

OptiComm, as you will have seen in the introduction contained within our submission, probably have the widest and most extensive experience within Australia for FTTP GPON deployments, and without our experience and capabilities, it is fair to say, that the NBN Tasmania trials would not have met all their targets and outcomes.

Many of our Employees have been involved in FTTP for more than 10 years and we have always had to compete against a virtual monopoly i.e. Telstra, which through its power and control of key infrastructure and a desire to protect existing revenues and plant, set the pace and flavour of FTTP rollout and services for the vast majority of Greenfield developers and their residents.

We therefore hope it is not the intent, nor the outcome of this legislation, that we see the Ministers much heralded structural reform of the telecommunications industry, result in even less competition within Greenfields.

This we fear would be the Greenfields outcome should we see Government policy resulting in NBN Co, simply replacing Telstra as the incumbent monopoly and perhaps being even further out of reach of competition due to new legislation protection.

We have not had much time to completely review every clause or every outcome of this bill, however we do know that competition works best when there is a level playing field and to that end we have suggested three issues that we see may impede the stated and desired outcome of having competition and choice within Greenfields – to touch on those points

1. Construction standards should be industry developed – we note in DBCDE's submission of 23/5/11 whereby they clarified how the bill operates following some misunderstandings that became apparent at the joint committee on the NBN hearing on 16/5/11, that they say – The Governments policy in relation to specifications for use where a developer wishes to use NBN Co. The specifications shall also be provided to the Communications Alliance with the view of having these specifications endorsed for general use by industry as soon as possible

There are already specifications developed and in use for FTTP by carriers today, NBN Co should quite rightly have a specification that is designed for their architecture and requirements but this should not become an Industry standard or requirement.

Communications Alliance, for example, is currently drafting a pit and pipe specification that provides a guide for construction requirements that can be used by carriers and designers to ensure a minimum consistent standard is maintained, however if a particular carrier (e.g. NBN Co) has specific requirements, then they should only be required where a NBN Co installation is being installed, to make their requirements mandatory is an impediment to competition and innovation.

2. If the desire is that there should be choice in Greenfield, then we should ensure that any legislation is structured so as to ensure, as much as possible, that there exists a level playing field. It has been raised in various submissions to this committee that back haul is currently the most unequable component facing FTTP operators and this legislation does not appear to address this. NBN is proposing to provide for 'free' the back haul to Greenfield estates, most likely in the future from nearby Telstra infrastructure, however alternative FTTP operators must currently seek a third party provider of back haul, who is most likely much further away than a Telstra facility and incur a much increased cost – this is not much different than the problem that the Governments Black spot

program for non competitive trunk backhaul has addressed. We suggest that Greenfield back haul be treated along the same lines, perhaps funding the installation of back haul, or having NBN provide back haul to the boundary of a Greenfield estate and having operational costs a declared service to ensure cost neutrality or a soft loans scheme to finance the back haul build could be established to provide a more level playing field

3. The Statement of Expectations joint media release by The Hon Julia Gillard, the Hon Wayne Swan and The Hon Penny Wong and the Hon Stephen Conroy published 20 December 2010 reconfirmed that the expectations of the NBN fibre rollout included that, NBN Co will be the wholesale provider of last resort for fibre connections in new developments and yet this bill does not stipulate this, nor does it provide for this in subordinate legislation.

We believe that for this to be achieved, industry must have a level playing field for Greenfield networks. The introduction of cost neutral back haul to Greenfield Developers will go a long way towards achieving this; however a NBN Co network will be offering Greenfield developers tax payers financed 'free' installation of the fibre infrastructure, whilst private networks will need to internally fund this infrastructure.

The introduction of government provided 'soft loans' perhaps set at a nominated amount per home passed and repaid at NBN Co type rates of return, which were then available to approved carriers who provide NBN equivalent layer two, wholesale only equivalent services, would ensure that Greenfield developments could be serviced by existing and new operators, offering at a minimum the equivalent service they would get from a NBN Co deployment, at the same or lower cost than that which it would cost NBN Co to deploy

We have survived and grown, even within the David and Goliath environment we participate in because we offer variety and value add services that are valued by the developers and communities they service. In our opinion, we would say that this legislation needs to be careful and regardless of the stated objective of this legislation to allow competition, that we don't put restrictions in place that don't provide the level playing field needed to enable it.

If you have no competition, you have no incentive for innovation; you have no incentive to offer consumers choice and new services. OptiComm offers developers/consumers that innovation, those additional services, the speed of change that smaller operators can offer – that is why we have survived, if this legislation stops companies like OptiComm from being able to offer these advantages then we can only have a even poorer outcome than what we have today