

17 April 2009

Veronica Gover
Senior Research Officer
Senate Select Committee on the National Broadband Network
PO Box 6100
Parliament House
Canberra ACT 2600

By email: veronica.gover@aph.gov.au

Dear Veronica,

We refer to your request of 19 March 2009. Please find attached responses to the additional questions that were not tabled at the hearing of 3 March 2009.

In response to the two questions outstanding from the Committee hearing, please note:

1. Primus does not have equipment installed at the Deakin exchange so has not been impacted by the decision by Telstra to eject competitors from that exchange. In our view Telstra has demonstrated a general unwillingness to foster DSLAM installations by other industry participants, and the conduct on the part of Telstra in relation to that exchange is consistent with our experience.
2. Telstra has not made available to Primus any maps or other information or data that would enable Primus to accurately identify the location of pair gain systems.

Please do not hesitate to contact us if you have any further questions.

Yours sincerely



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General & Regulatory Counsel

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SENATE SELECT COMMITTEE ON THE NATIONAL BROADBAND NETWORK

Additional Questions not tabled the Senate hearing of 3 March 2009

Question One. How can the Australian Government ensure that whoever operates the NBN is committed, if not compelled, to continue to upgrade and invest in the NBN infrastructure, thus enabling greater innovation and competition among access seekers?

The more critical form of innovation will stem from competition in the delivery of content and user applications that make use of the available bandwidth. Accordingly, the right accountabilities and incentives must be in place to ensure necessary network maintenance and desirable upgrade activities are undertaken. A number of options exist. Commercial agreements often include service level commitments, which can be an effective means to incentivise performance. Consideration can also be given to permitting ISP's to take minority holdings in the NBN infrastructure company or acquire advisory board positions. This could deliver an ownership or governance structure that to some extent reflects the interests of access seekers, including their interest in network investment and service innovation. Some caution would be necessary to ensure that market dominant ISP's with an incentive to retain the status quo were not permitted to unduly exert influence to suppress investment and innovation. The nature of any applicable regulatory regime can also influence maintenance and innovation outcomes. The regulatory regime can be designed to ensure it permitted fair and reasonable returns on efficient investment and maintenance activities. Consideration can also be given to a regime whereby ahead of each regulatory period, agreement can be reached with infrastructure owners in respect to approved operational expenditure and capital projects. Any such agreement would clearly need to remain subject to revision within a regulatory period if additional expenditure was considered necessary or desirable.

Question Two. A recent survey of business CEOs found that a significant proportion of CEOs did not fully comprehend the positive benefits that broadband could have on their business. How should the Government address this lack of awareness? For example, should the provision of awareness training be an integral component of the deployment of the NBN, to ensure that Australia reaps the benefits of the investment of significant public funding?

Some form of awareness campaign may be beneficial in the interests of maintaining and stimulating Australian businesses and employment in an increasingly global economy. For example it would be helpful if business practitioners understood and were able to capitalise on the benefits of faster broadband in respect to their business activities ahead of any rollout. While the cut and thrust of competition would largely drive this understanding and associated take-up, it would be assisted through early awareness of the commercial opportunities presented by the availability of NBN based broadband services. Whilst also helping Australian businesses to more readily reap the benefits of the NBN, such an awareness campaign may also stimulate broader consumer adoption of the broadband economy.

Question Three. Given the support for the NBN to be operated as a wholesale business only, is there any reason why it could not be owned by government? What implications could government ownership of the NBN have for future investment? Could the NBN operate as a government owned utility which is leased or franchised out to various access providers who would act as wholesale suppliers?

Some form of Government equity interest had always been proposed in respect to the NBN. This was particularly relevant given the reluctance of Telstra to offer 'open access', and also given the share scale of the NBN project and its significance for the Australian economy and way of life. The prospect of additional Government interest emerged as it became clear what impact the global financial crisis had on debt markets. Government ownership does not necessarily have any particular negative or positive implications for future

investment. The same investment principles should apply to both private and public investment in essential infrastructure. The investment must be prudent and efficient, and lead to clear benefits for the users. Leasing or contracting the NBN to various wholesale suppliers would appear to be a workable model, on the condition that the operator did not have incentives to favour any one retailer (through application of structural separation principles). Leasing or contracting the wholesale activities to various entities appears consistent with the model adopted in New Zealand.

Question Four. Many submissions have suggested that poor international connectivity will continue to impact on the price, quality and availability of Australian broadband services. Do you believe that there should be complementary investment in overseas fibre links to ensure that the NBN does not just produce a new bottleneck at the international fibre gateways?

To harness the benefits of the NBN it is essential there is sufficient forward-looking international capacity available on genuinely competitive international fibre links. The market behaviour at this time in respect to international connectivity demonstrates a lack of competition on the international fibre gateways. In our view this has to be rectified as a priority. While such a bottleneck may impact in a material way on price, quality and availability of Australian broadband services, the case for deploying an NBN at this time even in the face of less than ideal international connectivity options is still comfortably made out. However, this issue should not be neglected and it is essential that the Government and the industry work to resolve this as a priority. It may require a truly international (multi-jurisdictional) approach.

Question Five. Given that the NBN will become a critical component of Australia's national infrastructure, how can the Government ensure there is a high level of consultation, collaboration and coordination across the three tiers of governments that will need to cooperate in an infrastructure project of this size and significance?

It will require a shared vision on the part of the various layers of government and the broad agreement of all stakeholders about the objectives of the NBN. We consider the objectives of the NBN compelling and would anticipate that open and frank discussion among the various tiers of government should achieve the collaboration and coordination necessary to succeed with a project of this size. The success of the project build will be assisted through engaging the assistance of high calibre, visionary and experienced managers, with strong leadership skills and demonstrated excellence as effective communicators.

Question Six. What changes to the USO should be made in light of the NBN?

In our view the Government should initiate a public inquiry into the future of the USO. We are not in a position to currently address the question without first having the opportunity to consider the views of the wider public and consumer groups. These are significant questions about the objective of the USO in the NBN environment, and the type and quality of services that should be covered under the USO. There are a broad range of stakeholders beyond industry participants that have an interest in any such decisions around the USO, and those views should be considered ahead of finalising any position. Any decision in connection with the USO would also be dependant on a detailed costing of providing services in uneconomic areas.

Question Seven. It has been argued that the NBN should be treated as a utility in the same way as, for example, the power sector. However, following recent blackouts caused by high demands, criticisms have been raised of the apparent lack of investment for infrastructure upgrades. To what extent may structural separation in the power sector have acted as a disincentive to investment? What danger is there that establishing the NBN as a utility in a similar way could have a similar outcome?

It is unlikely the NBN infrastructure as proposed by the Government would be similarly susceptible to such severe faults. While the current copper network demonstrates poor reliability and quality of service, and may be susceptible to regular outages, fibre technology – once deployed - is extremely robust and reliable. That

said, it is well recognised that networks of any kind require suitably competent management and appropriate maintenance practices. It is questionable whether these basic requirements were adhered to in respect to the relevant energy infrastructure. It is likely that these faults are symptomatic of other problems and would have emerged whether or not structural separation was in place. Interestingly, our view is that structural separation assists with better targeting investment than would be the case under an integrated ownership structure where investment is not targeted at consumer or competitive needs but is often instead targeted to assist the interests of one vertically integrated industry participant to gain favour over other competitors.

Question Eight. The recent submission by C-Cor states that the expansion and/or upgrading of the existing HFC network would provide a much faster and more economical upgrade of broadband capabilities in urban and regional areas, leaving more funding to provide other technologies to under-serviced areas. What are your views on this suggestion?

Although we have limited exposure to deploying and operating HFC networks, our understanding is that HFC will ultimately provide an inferior outcome to the FTTP proposal as announced by the Rudd Government.

Question Nine. What is your customer mix (ie proportion of government, business and residential customers)?

While Primus has traditionally taken a strong and leading brand position in the residential market, more recently Primus has been gaining significant traction in the small to medium business sectors. Revenue earned from the business sector is now similar to the revenue earned from the residential sector. Although Primus has not specifically targeted Government agencies, with the advent of an open access NBN, Primus looks forward to the opportunity to engage with the large corporate and Government sectors.

Question Ten. What role should the ACCC and ACMA have in an NBN environment? Would there be any advantage in a merging of regulatory bodies to reflect the increasing convergence of NGN technologies?

It must be remembered the ACCC has a broader brief than regulation of the telecommunications industry, with both agencies having their own discrete overriding objectives. The ACCC is charged with ensuring competition and fair trade for the benefit of consumers across the entire economy. While merger of the agencies is worth further consideration, any such merger at this time may ultimately be at the expense of the key competencies of each agency. Over time they have each developed a specialist expertise, culture and focus. Whilst it is evident that ACMA and the ACCC now work more closely together than ever before, and they have in recent years combined to remove unnecessary and duplicative regulatory requirements, it's not clear the case for merging the entities on the grounds of convergence of NBN technologies has been sufficiently made out at this time.