

# Chapter Ten

## Related legislative developments

### Telecommunications Competition and Consumer Safeguards Bill

10.1 The Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2009 (the CCS Bill) seeks to introduce a series of regulatory reforms intended to enhance competitive outcomes in the Australian telecommunications industry and strengthen consumer safeguards. It seeks to address Telstra's vertical and horizontal integration, streamline the telecommunications access and anti-competitive conduct regime, and strengthen consumer safeguards, including the Universal Service Obligation (USO) and the Customer Service Guarantee (CSG).

10.2 The CCS Bill was introduced into the House of Representatives on 15 September 2009. On 17 September 2009 it was referred to the Senate Environment, Communications and the Arts Legislation Committee for inquiry and report. That committee tabled its report in October 2009.<sup>1</sup>

10.3 In its *Third Report*, this committee discussed the provisions of the CCS Bill and recommended:

That further consideration of the bill not proceed until after the NBN Implementation Study has been completed, the government has tabled its response to the Implementation Study and the Senate has certainty about the network structure of the NBN Co and the regulatory framework which will surround it.<sup>2</sup>

10.4 During the first parliamentary sittings periods of 2010, the CCS Bill was subject to protracted procedural wrangling on the basis of the Government's failure to table the Implementation Study, and continued uncertainty about the Government and NBN Co's commercial negotiations with Telstra as to the acquisition of its assets and customer migration for the NBN.

10.5 At the time of writing this report, the CCS Bill had not passed the Senate.

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1 Environment, Communications and the Arts Legislation Committee, *Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2009 [Provisions]*, 26 October 2009, [www.aph.gov.au/senate/committee/eca\\_ctte/tlaccs/report/index.htm](http://www.aph.gov.au/senate/committee/eca_ctte/tlaccs/report/index.htm), accessed 19 April 2010.

2 *Third Report*, p. 134.

## **Fibre in greenfields policy**

10.6 When announcing its plans to build the NBN, the Government also indicated that it would '[p]rogress legislative changes that will govern the national broadband network company and facilitate the rollout of fibre networks, including requiring greenfield developments to use FTTP technology from 1 July 2010'.<sup>3</sup> This was known as the Government's 'fibre in greenfields' policy.

10.7 The Government introduced the Telecommunications Legislation Amendment (Fibre Deployment) Bill 2010 (the Fibre Deployment Bill) to implement that policy.

10.8 On 18 March 2010 the Senate referred provisions of the Fibre Deployment Bill to the Environment, Communications and the Arts Legislation Committee for inquiry and report by 12 May 2010.

10.9 In light of that process, this committee does not propose to discuss the provisions of the Fibre Deployment Bill, except to note that a response by the Department to one of the questions on notice raised during the course of that inquiry was particularly alarming to this committee.

10.10 In response to a question about whether it would be inequitable to require greenfield estates (ie new developments) to pay for the installation of fibre-related infrastructure while existing premises would (presumably) be serviced for free as part of the national NBN roll-out, the Department suggested that no premises may receive free installation and deployment of fibre to the premises. The Department stated:

It was noted in the Second Reading Speech [for the Fibre Deployment Bill] that the cost recovery arrangements that may ultimately apply in greenfields will depend on the commercial arrangements that emerge between all relevant parties as fibre-to-the-premises is deployed more widely. How roll-out costs will be recovered in both brownfields and greenfields will depend on a range of factors and it cannot simply be assumed that stakeholders in greenfields will have to meet costs in one way while those in brownfields are expected to meet them in another. In all instances, NBN Co is expected to operate on a commercial basis and to recover its costs.<sup>4</sup>

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3 The Hon. Kevin Rudd MP, Prime Minister of the Commonwealth of Australia, the Hon. Wayne Swan MP, Treasurer of the Commonwealth of Australia, the Hon. Lindsay Tanner MP, Minister for Finance, the Hon. Stephen Conroy MP, Minister for Broadband, Communications and the Digital Economy, 'New National Broadband Network', Joint press release, 7 April 2009, [www.minister.dbcde.gov.au/media/media\\_releases/2009/022](http://www.minister.dbcde.gov.au/media/media_releases/2009/022), accessed 27 April 2010.

4 Department of Broadband, Communications and the Digital Economy, answer to question on notice to the Senate Environment, Communications and the Arts Committee (Legislation), Question 5, 19 April 2010 (received 28 April 2010), Attachment B, Item 1, p. 1.

10.11 If owners of existing Australian premises will indeed be required to pay for the costs of deployment of the NBN to their premises (and by 'deployment' the committee is encompassing more than just the costs of internal wiring of the home once the fibre is deployed down the street), then significant questions arise as to whether such an arrangement would mean Australians will in effect be paying twice for the network: first as taxpayers whose dollars are funding the roll-out; second, as residents who, through presumably a network connection fee, usage charge or some other similar arrangement, are required to pay a second time for the NBN to actually service their individual premises.

**Senator Ian Macdonald**

**Chair**

