

Appendix 1

Terms of Reference

(Revised by the Senate on 26 November 2009, 17 March 2010 and 12 May 2010: revisions shown in bold)

1. That a select committee, to be known as the Select Committee on the National Broadband Network, be established to inquire into and report by **17 June 2010** on:
 - a. the Government's decision to establish a company to build and operate a National Broadband Network (NBN) to:
 - i. connect 90 per cent of all Australian homes, schools and workplaces with optical fibre to the premise (FTTP) to enable broadband services with speeds of 100 megabits per second;
 - ii. connect all other premises in Australia with next generation wireless and satellite technologies to deliver broadband speeds of 12 megabits per second or more;
 - iii. directly support up to 25,000 local jobs every year, on average, over the eight year life of the project.
 - b. the implications of the NBN for consumers and taxpayers in terms of:
 - i. service availability, choice and costs,
 - ii. competition in telecommunications and broadband services, and
 - iii. likely consequences for national productivity, investment, economic growth, cost of living and social capital.
2. That the committee's investigation include, but not be limited to:
 - a. any economic and cost/benefit analysis underpinning the NBN;
 - b. the ownership, governance and operating arrangements of the NBN company and any NBN related entities;
 - c. any use of bonds to fund the NBN;
 - d. any regulations or legislation pertaining to the NBN;

- e. the availability, price, level of innovation and service characteristics of broadband products presently available, the extent to which those services are delivered by established and emerging providers, and the prospects for future improvements in broadband infrastructure and services (including through private investment);
- f. the effects of the NBN on the availability, price, choice, level of innovation and service characteristics of broadband products in metropolitan, outer-metropolitan, semi-rural and rural and regional areas and towns;
- g. the extent of demand for currently available broadband services, the factors influencing consumer choice for broadband products and the effect on demand if the Government's FTTP proposal proceeds;
- h. any technical, economic, commercial, regulatory, social or other barriers that may impede attaining the Government's stated goal for broadband availability and performance in the specified timeframe;
- i. the appropriate public policy goals for communications in Australia and the nature of any necessary regulatory settings to continue to develop competitive market conditions, improved services, lower prices and innovation;
- j. the role of government and its relationship with the private sector and existing private investment in the telecommunications sector;
- k. the effect of the NBN on the delivery of Universal Service Obligations services;
- l. whether, and if so to what extent, the former Government's OPEL initiative would have assisted making higher speeds and more affordable broadband services available.

2A That the committee is to examine the findings of the National Broadband Network Implementation Study, the Government's response to the Implementation Study and any subsequent impact of that report for the national Broadband Network policy.

- 3. That, in carrying out this inquiry, the committee will:
 - a. expressly seek the input of the telecommunications industry, industry analysts, consumer advocates, broadband users and service providers;
 - b. request formal submissions that directly respond to the terms of reference from the Australian Competition and Consumer Commission, the Productivity Commission, Infrastructure Australia, the Department of the Treasury, the Department of Finance and Deregulation, and the Department of Infrastructure, Transport, Regional Development and Local Government;

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- c. invite contributions from organisations and individuals with expertise in:
 - i. public policy formulation and evaluation,
 - ii. technical considerations including network architecture, interconnection and emerging technology,
 - iii. regulatory framework, open access, competition and pricing practice,
 - iv. private sector telecommunications retail and wholesale business including business case analysis and price and demand sensitivities,
 - v. contemporary broadband investment, law and finance,
 - vi. network operation, technical options and functionality of the 'last mile' link to premises, and
 - vii. relevant and comparative international experiences and insights applicable to the Australian context;
 - d. advertise for submissions from members of the public and to the fullest extent possible, conduct hearings and receive evidence in a manner that is open and transparent to the public; and
 - e. recognise the Government's NBN proposal represents a significant public sector intervention into an increasingly important area of private sector activity and that the market is seeking openness, certainty and transparency in the public policy deliberations.

Appointment of the Committee

4. That the committee consist of 7 senators, 2 nominated by the Leader of the Government in the Senate, 4 nominated by the Leader of the Opposition in the Senate, and 1 nominated by any minority party or independent senators.
5. a. On the nominations of the Leader of the Government in the Senate, the Leader of the Opposition in the Senate and any minority party and independent senators, participating members may be appointed to the committee;
- b. participating members may participate in hearings of evidence and deliberations of the committee, and have all the rights of members of the committee, but may not vote on any questions before the committee; and
- c. a participating member shall be taken to be a member of the committee for the purpose of forming a quorum of the committee if a majority of members of the committee is not present.

6. That the committee may proceed to the dispatch of business notwithstanding that all members have not been duly nominated and appointed and notwithstanding any vacancy.
7. That the committee elect as chair one of the members nominated by the Leader of the Opposition in the Senate.
8. That the chair of the committee may, from time to time, appoint another member of the committee to be the deputy chair of the committee, and that the member so appointed act as chair of the committee at any time when there is no chair or the chair is not present at a meeting of the committee.
9. That, in the event of an equally divided vote, the chair, or the deputy chair when acting as chair, have a casting vote.
10. That the committee have power to appoint subcommittees consisting of 3 or more of its members, and to refer to any such subcommittee any of the matters which the committee is empowered to examine.
11. That the committee and any subcommittee have power to send for and examine persons and documents, to move from place to place, to sit in public or in private, notwithstanding any prorogation of the Parliament or dissolution of the House of Representatives, and have leave to report from time to time its proceedings and the evidence taken and such interim recommendations as it may deem fit.
12. That the committee be provided with all necessary staff, facilities and resources and be empowered to appoint persons with specialist knowledge for the purposes of the committee with the approval of the President.
13. That the committee be empowered to print from day to day such papers and evidence as may be ordered by it, and a daily Hansard be published of such proceedings as take place in public.