

Appendix 2

Previous recommendations of the committee

Recommendations of Fourth Interim Report

Report tabled 18 May 2010

Recommendation 1

2.14 That the Government abandon the National Broadband Network project.

2.15 That if, in the alternative, the Government insists on progressing the NBN, it be progressed in accordance with the recommendations contained in the remainder of this report.

Recommendation 2

2.75 That the Government require the Department of Finance and Deregulation (the DoFD) to calculate the net present value of the NBN, using the data and assumptions contained in the Implementation Study, and based on a calculation of the weighted average cost of capital in accordance with the usual principles applied by the DoFD in relation to public capital expenditure.

Recommendation 3

2.80 That the Government provide a comprehensive response to the Implementation Study as soon as possible.

2.81 That the response clearly articulate in detail:

- a mandate for NBN Co and when, how and where that mandate will be formally recorded;
- the proposed funding arrangements for NBN Co, including a statement of all intended future equity contributions to NBN Co or NBN Co subsidiaries, the quantum and timing of each, and the arrangements the Government will make to formalise its funding agreement with NBN Co;
- a business plan for the NBN, where necessary developed in consultation with NBN Co, and including a cost-benefit analysis;
- the proposed timetable for the roll-out of the NBN to all Australian premises, including the type of services that will be available in particular, identified locations;

- the future of the Universal Service Obligation and how services will be guaranteed and funded for regional and remote Australian premises.

Recommendation 4

3.33 That NBN Co consult with local councils at the earliest possible stage as to the most appropriate local roll-out plan and local planning requirements.

3.34 That each local roll-out plan seek to coordinate the roll-out of the NBN with other activities occurring in the local government area so as to best realise potential synergies, cost savings, and benefits to local residents and businesses.

3.35 That the Government favour underground cabling in the remainder of the 90 per cent Fibre to the Premises footprint, ensuring long-term, future proof benefits for the network, its investors and its consumers.

Recommendation 5

3.47 That the Government clarify whether NBN Co (and its subcontractors) will be exempt from development consent and landowner consent requirements in all States and Territories.

Recommendation 6

3.48 That Commonwealth, State and Territory environmental and planning legislation, and State and local government planning policies concerning development and landowner consent requirements, be reviewed to ensure that fibre and related infrastructure can be effectively and efficiently deployed both to the premises and within premises.

Recommendation 7

4.56 That the Government detail its understanding of the likelihood that there might be failure in the Layer 3 wholesale market, and what it understands would be the consequences of any such failure for service delivery and innovation potential.

Recommendation 8

4.75 That NBN Co formally engage consumer groups in its industry consultation processes. That such consultation be in addition to the involvement of consumer groups in NBN Co's information sessions.

Recommendation 9

4.98 That the Department immediately consider whether potential decisions on network architecture will create a risk that NBN Co and/or the Government will be liable to pay compensation to third parties, and the likely quantum of any compensation.

Recommendation 10

4.103 That NBN Co release a detailed implementation plan describing how and when services will be provided to specified regional and remote locations, and what the cost of connection will be for regional householders.

4.104 That the implementation plan prioritise the servicing of regional and remote locations so that the network is 'rolled-into' urban areas from regional and rural areas.

Recommendation 11

4.113 That priority assistance customers, like the elderly, hospitals, and emergency services, have access to a working landline telephone service in the event of a mains power failure to the premises.

4.114 That there be a mass-education campaign to alert end-users to the consequences of a non-copper telephony service in the event of a mains failure to their premises.

Recommendation 12

5.26 That the NBN Co Bill be amended so that NBN Co can only provide services at Layer 2 and below.

5.27 That, in the event that a competitive market for the supply of unbundled Layer 3 services does not develop, the Government consider arrangements for a Universal Service Obligation to address this failure, particularly in regional and remote areas.

Recommendation 13

5.37 That provisions of the NBN Co Bill relating to the future privatisation of NBN Co be amended to clarify what is meant by 'built and fully operational'.

Recommendation 14

5.38 That the NBN Co Bill be amended so that a declaration by the Communications Minister that the NBN should be treated as built and fully operational is a disallowable instrument. That is, that clause 22(8) of the NBN Co Bill stating that such a declaration is 'not a legislative instrument' be deleted.

Recommendation 15

5.39 That the NBN Co Bill be amended so as to expressly require NBN Co to meet minimum service obligations after the cessation of Commonwealth majority ownership. Those obligations must include that:

- NBN Co retain its capacity to provide broadband services to 100 per cent of Australian premises;

- NBN Co retain its capacity to service 90 per cent of Australian premises with Fibre to the Home services with speeds of up to 100 Mbps;
- NBN Co retain its capacity to service the remaining 10 per cent of Australian premises with broadband connections of speeds of at least 12 Mbps;
- NBN Co develop and maintain its capacity to supply Layer 2 services to 100 per cent of Australian premises; and
- NBN Co maintain its open-access network, providing wholesale services on an equitable basis.

Recommendation 16

5.40 That the Government consider ways to 'future-proof' NBN Co's services. This must include a specific requirement that NBN Co report to the ACCC every five years on developments in broadband services in other comparable advanced economies, and that if the report demonstrates that NBN Co's services are falling behind those available to a majority of end users in other comparable advanced economies, lay out a plan to close the gap.

Recommendation 17

5.41 That the NBN Co Bill be amended so as to explicitly require NBN Co to publicly disclose its service performance even after the cessation of majority Commonwealth ownership.

Recommendation 18

5.49 That the NBN Co Bill be amended to explicitly set out the basis on which minority equity owners can request access to any information provided by NBN Co to the Government.

Recommendation 19

5.55 That the Government establish a consumer advisory group dedicated to the NBN. That the NBN Co Bill be amended to require NBN Co to have regard to the advice of that consumer advisory group when performing its functions.

Recommendation 20

5.56 That the Government and NBN Co prepare a strategy to address how end-user complaints are to be handled, and review the sufficiency of current resourcing and processes of the Telecommunications Industry Ombudsman to handle the expected future workload.

Recommendation 21

6.20 That the Access Bill be amended so as to provide guidance on what is meant by 'efficiency' for the purpose of the equivalence provisions. The amendments should also ensure that volume considerations cannot be counted as matters which 'aid efficiency' for the purpose of obtaining an exemption to the non-discrimination obligations on NBN Co.

Recommendation 22

6.21 That the Access Bill be amended so that ACCC pre-approval is required of any agreement to which NBN Co is a party and under which an access seeker is granted access on discriminatory terms on the basis of the 'efficiency' exception.

Recommendation 23

6.30 That the Government make public its intentions as to the future of Telstra's USO in relation to telephony services.

Recommendation 24

6.31 That the Government make public its intentions as to whether and how there will be a future universal service obligation to provide broadband services, and the associated cost implications for the Australian people.

Recommendation 25

7.45 That the Government, in consultation with NBN Co, immediately undertake a skills audit for the NBN to ensure there is a fully skilled workforce ready to deploy the NBN in each region. The audit should detail:

- (a) the training courses required;
- (b) the training timeframes involved; and
- (c) the training institutions available.

Recommendation 26

7.46 That the Government, in consultation with industry groups and NBN Co, develop national standards and national training modules and accreditation processes to ensure the NBN workforce is appropriately skilled.

7.47 That such modules and accreditation processes be tailored to suit the differing needs of workforce participants who will come to the NBN with varied levels of prior relevant experience.

Recommendation 27

8.26 That the Government and NBN Tasmania create a single public document, to be released as soon as possible, which sets out all remaining stages in the planned roll-out of the NBN in Tasmania, including the expected timetable for the roll-out, and the expected timing and quantum of any future Government-funded equity injections.

Recommendation 28

8.27 That NBN Co make widely available, for all prospective end-users across Australia, information on:

- when NBN services will be offered in their region;
- how the NBN-based products will differ from their current services;
- what preparation of their premises they need to, or should do, prior to installation;
- what potential property disruption could be caused to their premises or surrounding areas during the deployment of the NBN or the internal installation of equipment within their premises; and
- how much the services will cost them to purchase from a retailer.

Recommendations of Third Report

Report tabled 26 November 2009

Recommendation 1

1.54 That the Implementation Plan clearly states the government's intention to prioritise the needs of underserved communities, particularly those in regional, rural and remote areas, over those with comparatively well-served urban areas.

Recommendation 2

5.40 That the government releases a detailed Business Plan for Tasmania by 31 December 2009 that includes: an implementation plan that details which towns will be connected by fibre and which will miss out; Commonwealth funding details for the Tasmanian roll-out; pricing details for Tasmanian consumers; and the percentage of aerial vs underground fibre connections to the premises.

Recommendation 3

5.46 That the government expediently bring forward the legislation that will provide the governance and funding framework for the NBN Co Ltd.

Recommendation 4

6.188 That the government conducts a rigorous cost-benefit analysis of its NBN proposal before the NBN Co enters into any new asset purchasing agreements for the mainland deployment.

Recommendation 5

6.189 That the government provides an Interim Implementation Study Report by 31 December 2009. This must provide a progress account of the planning of the NBN, including the progress of the deployment in Tasmania and lessons learned from that deployment.

Recommendation 6

6.190 That the government immediately undertakes a skills audit for the NBN, detailing the training course required, the training timeframes involved and the training institutions available to ensure there is a fully skilled workforce ready to deploy the NBN in each region.

Recommendation 7

6.191 That the cost-benefit analysis, the Interim Implementation Study Report and the Final Implementation Study, are all released for public scrutiny within 14 days of completion.

Recommendation 8

6.192 That the government commissions the Productivity Commission to undertake an annual ongoing evaluation of the impact on productivity resulting from broadband uptake, across all community, business and industry sectors, with the first report to be tabled in parliament before the last sitting day in 2010.

Recommendation 9

6.193 That if the Implementation Study concludes the NBN project specifications are unrealistic, not practical or uneconomical, that the government must reassess its overall policy approach.

Recommendation 10

7.91 That the government provide greater opportunities for commercial viability of broadband networks by advocating the development of new applications that will facilitate economic development and improvements in health, education and energy efficiency outcomes.

Recommendation 11

8.83 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.

Recommendation 12

9.18 That the Senate agree to extend the Select Committee on the National Broadband Network, under the following revised terms of reference:

a) That the resolution of the Senate of 25 June 2008, as amended, appointing the Select Committee on the National Broadband Network, be further amended:

- to omit "25 November 2009", and substitute "30 April 2010"; and
- to add the following paragraph to the committee's terms of reference:

(2A) 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 implications of that report for the National Broadband Network policy.

Recommendations of Second Interim Report

Report tabled 12 May 2009

Recommendation 1

2.152 That the Auditor General conducts a full review of the RFP process, to be commenced before the end of 2009.

Recommendation 2

2.154 That Infrastructure Australia be involved in the NBN process to the fullest capacity.

Recommendation 3

3.92 That the government:

- provides the committee with the Final and any Interim Reports prepared by the Lead Advisor to the implementation study.
- table a progress report in the Senate on the implementation of the NBN by no later than 17 September 2009, and that this progress report detail timeframes, benchmarks and milestones for specified deliverables against which the implementation of the project can be measured, including costings; and
- table further progress reports by the end of the Winter and Spring Sittings until such time as the NBN company's annual reports are available, which include evidence that the timeframes, milestones and benchmarks have been reached, the reasons for any failure to do so and remedial action to be taken.

Recommendation 4

3.94 That the government provide the committee with a copy of:

- the detailed implementation plan for the roll-out of the National Broadband Network, to be developed as part of the implementation study, on the first sitting day after it is provided to the Department; and
- the risk management strategy for the NBN roll-out.

Recommendation 5

3.97 That, as soon as possible, but no later than the last sitting day of the Winter sittings, the government provide to the committee the following:

- the Australian Competition and Consumer Commission's formal report on the National Broadband Network (NBN) proposals to the NBN Panel of Experts
- the final report provided to the government from the NBN Panel of Experts on submissions to the NBN process.

Recommendation 6

3.99 That those aspects of the Expert Panel and the ACCC reports that discuss or make any conclusions or recommendations about the existing regulatory framework and options for its reform be provided to the committee as soon as possible, but no later than the last sitting day of the Winter sittings.

Comments and conclusions of Interim Report

Report tabled 2 December 2008

Comments: chapter 2

2.14 The committee acknowledges that broadband benefits will facilitate the government's social inclusion agenda, particularly for those Australians living in isolation. However, the committee also acknowledges that the extent to which these benefits are felt will be highly dependent on the extent to which the NBN will be accessible by those in regional and remote Australia.

Conclusion 1

2.26 The committee is of the opinion that, in order to prevent a difference of measurement modelling, similar to that which occurred with the assessment of the OPEL bid, possibly resulting in a consequential delay to the NBN implementation, it would be beneficial for all stakeholders to know which modelling the department will use to assess the coverage footprint.

2.38 It is the committee's view that it would be an extremely unsatisfactory result for the NBN, such a significant government investment, which has been contributed to by all Australian taxpayers, to reach only a small percentage of a state's geographical area while leaving a very high proportion of rural and remote citizens without access to the NBN.

Conclusion 2

2.42 At the time of this report going to print, neither the department nor the Australian Government had provided any guidance or further clarification of the composition of the 98 per cent NBN coverage footprint. The committee believes that the government needs to provide this clarification to proponents and stakeholders alike to ensure a level of confidence that the significant \$4.7 billion funding will benefit in particular those Australians that are already underserved or unserved. Particular attention is required to address the needs of those remote areas that are currently generating a large percentage of Australia's wealth yet are in the most underserved areas.

Conclusion 3

2.73 The committee believes that submissions received and evidence taken to date strongly support the need for the term 'open access arrangements' to be more clearly defined. The committee calls on the government to provide a clarification of this term, which is critical to encouraging ongoing competition in the industry. This would ensure that there is no potential for a successful bidder to interpret the term to its own competitive advantage.

2.109 The committee acknowledges concerns of affordability and service provision, which have the potential to impact on the long-term sustainability of the NBN operator in providing a viable return of investment.

Conclusion 4

2.127 The committee questions the appropriateness of the timeline for the evaluation of the RFP, believing it will not permit the necessary level of scrutiny by either the Expert Panel or the ACCC to select the successful proponent for the NBN.

Comments: chapter 3

3.48 The committee considers that the government should have provided a regulatory framework within the RFP; this would have provided proponents with greater certainty in building their business case for the NBN, while also providing a legal framework for the assessment of proposals.

Conclusion 5

3.56 The committee concludes that omitting to specify the structure of the new network has caused confusion and uncertainty among potential bidders and industry stakeholders.

3.88 The committee supports the general consensus that any new regulations that underpin the NBN should ensure that any operator/owner of the new network cannot participate in anti-competitive behaviour.

3.112 The committee encourages the government to effectively utilise this historic opportunity for regulatory change.

Conclusion 6

3.124 The committee believes that it is in the interest of the government, the industry and the Australian people to ensure that delays to the timeframe for implementation of the NBN are kept to a minimum. Notwithstanding this, the committee considers that the government should incorporate appropriate and timely opportunities for consultation with the industry on suggested regulatory changes.

Conclusion 7

3.125 The committee also believes that the government could easily remove several avenues of possible legal challenge by incorporating industry consultation into the process, even at this late stage.

Comments: chapter 4***Conclusion 8***

4.55 The committee believes that the requirement in the RFP for the NBN design to be based on a FTTN or FTTP platform should be broadened to enable a greater level of technology convergence where this is more appropriate than fibre.

Conclusion 9

4.76 The committee acknowledges the complexity of the deployment of the NBN. However, the committee concludes that the most effective use of this substantial expenditure would be to ensure that those Australian homes and businesses that are currently most disadvantaged should be prioritised for initial deployment of the NBN. That is, areas that are currently underserved or unserved should have broadband deployed first, with infrastructure subsequently rolled-*IN* towards the cities from those underserved areas, which are generally in regional, rural and remote communities.

Conclusion 10

4.77 The committee concludes that the best model for planning the deployment schedule would incorporate high levels of coordination and ongoing involvement by local and state governments with the Commonwealth Government. This would also provide assurance of support through appropriate regulatory changes within each tier of government.

Conclusion 11

4.78 The committee also concludes that there needs to be a carefully considered transition plan to migrate both existing service providers and their customers to the new network over the five year period specified in the RFP. The aim of this transition would be to ensure that it occurs seamlessly, with a no disadvantage test over the five years and that it minimises the issue of stranded assets and stranded customers.

