

Inquiry into the Performance of the Australian Telecommunications Regulatory Regime

SETEL Submission (The Small Enterprise Telecommunications Centre Limited)

1. Background

The Small Enterprise Telecommunications Centre Limited (SETEL) is a not-for-profit public company limited by guarantee. Membership comprises industry associations, with members predominantly from the Small Business sector, & businesses expressing their interests as users of telecommunications services. Sector coverage, through member associations, exceeds 600,000 small and micro businesses plus numerous home-based businesses.

SETEL participates in a wide variety of telecommunications industry fora. Our work is supported by the Commonwealth Government, through the 'Grants to Fund Telecommunications Consumer Representation' program of the Department of Communications, Information Technology and the Arts. The primary role of SETEL, in terms of grant funding, is to advance the interests of the Small Business sector as users/consumers of telecommunications services.

SETEL liaises extensively with industry, government and regulators on telecommunications matters affecting Small Business and has substantial involvement in the Australian Communications Industry Forum (ACIF) consumer code/guideline development processes. SETEL maintains active input into the Australian Competition and Consumer Commission (ACCC), the Australian Communications Authority (ACA) and the Department of Communications, Information Technology and the Arts in response to discussion papers and inquiries on telecommunications matters. A significant level of involvement is maintained with the TIO Council.

Small Business sector support for SETEL continues through the direct involvement of the Small Business Coalition, ACCI, COSBOA and Australian Business Limited in particular. SETEL also provides administrative and technical support for the Small Business Coalition E-commerce and Telecommunications Advisory Group (ETAG).

SETEL seeks to raise the levels of awareness, via Newsbriefs to members plus the publication of material on a website, of telecommunications issues, products and services in the Small Business sector. SETEL seeks to assist small businesses to make 'informed' decisions as in the telecommunications market. The website features telecommunications material from Government and industry sites.

A key component of SETEL's activities is to focus on the extent and quality of supply of telecommunications services to small businesses in non-metropolitan, rural and remote regions of Australia, particularly in areas where competition is either non-existent or not adequately developed. This does not mean that SETEL is satisfied with the general level of communications services provided to SMEs in urban areas, particularly in relation to provisioning of extra lines, mobile 'black spots', availability of non-standard telephone services and internet access speeds. A continuing challenge will be to derive increased focus on the telecommunications service situations facing

small businesses in non-metropolitan areas to determine whether there are serious inequities in terms of service delivery.

Emphasis was placed on determining the telecommunications needs of home-based and micro businesses, (as the majority of these entities are not represented by industry associations), and a report was produced in 2004. Not surprisingly, the availability of affordable medium/high-speed data services remains a key issue for many in this sector given that a significant number are located in newer sub-urban and rural developments not adequately serviced by communications infrastructure greater than prescribed under the Universal Services Obligation.

SETEL adopts both a pro-active as well as a re-active stance in relation to telecommunications policy and market developments, recognising that small businesses in general prefer to operate in a competitive environment.

2. SETEL's Objectives

- Advance and represent the interests of Small Business in telecommunications:
 - To Governments
 - To the Federal Public Service (in particular the Department of Communications, Information Technology and the Arts)
 - To the Australian Communications Authority and the ACCC
 - To the telecommunications industry
 - To other government-related areas impacting on the Small Business sector.
- Actively participate in ACIF code development programs and other ACIF activities, which have a bearing on Small Business.
- Raise awareness of telecommunications issues in the Small Business sector.
- Promote developments in telecommunications to the Small Business sector to increase the level of understanding of telecommunications issues and policy development and to foster greater input into policy debates on such matters.
- Provide briefing on telecommunications to the Small Business sector, mainly through industry and member associations.
- Seek to raise the level of participation by the Small Business sector in telecommunications industry fora.
- Provide a forum and co-ordinating role for Small Business in relation to the widespread adoption of electronic commerce.
- Continue liaison with consumer and user group bodies and representatives in the telecommunications sector and other industry associations involved in the telecommunications industry.
- Seek to recognise and promote the needs of different size related categories of small business - home-based and non-employing businesses, micro businesses (5 or less staff), larger small businesses (including rural businesses) and medium size businesses which make up the SME sector.
- Seek to raise small business awareness of how telecommunications can be used as a driver of business success, particularly through involvement in e-commerce activities.
- Seek to determine and address solutions for the adoption of e-commerce by associations and their members.

- Seek remedies to address SETEL's capacity to serve the interests of small business in domain name administration and to facilitate access to reliable internet connections at speeds sufficient to encourage the uptake of productive new web-based development tools.

SETEL seeks to continue its range of activities, including:

- fostering awareness of telecommunications issues throughout the small business sector,
- representing the interests of small businesses (as consumers of telecommunications services) in the development of Government and industry policy in relation to telecommunications,
- facilitating discussion of and research into telecommunications issues, and
- informing and educating small businesses and small business associations on telecommunications issues.

An integral part of this project involves efforts to improve the self-management of telecommunications issues and services by small, micro and home-based businesses.

3. Terms of Reference

1) Whether the current telecommunications regulatory regime promotes competition, encourages investment in the sector and protects consumers to the fullest extent practicable, with particular reference to:

(a) whether Part XIB of the *Trade Practices Act 1974* deals effectively with instances of the abuse of market power by participants in the Australian Telecommunications sector, and, if not, the implications of any inadequacy for participants, consumers and the competitive process;

(b) whether Part XIC of the *Trade Practices Act 1974* allows access providers to receive a sufficient return on investment and access seekers to obtain commercially viable access to declared services in practice, and whether there are any flaws in the operation of this regime;

(c) whether there are any structural issues in the Australian telecommunications sector inhibiting the effectiveness of the current regulatory regime;

(d) whether consumer protection safeguards in the current regime provide effective and comprehensive protection for users of services;

(e) whether regulators of the Australian telecommunications sector are currently provided with the powers and resources required in order to perform their role in the regulatory regime;

(f) the impact that the potential privatisation of Telstra would have on the effectiveness of the current regulatory regime;

(g) whether the Universal Service Obligation (USO) is effectively ensuring that all Australians have access to reasonable telecommunications services and, in particular,

whether the USO needs to be amended in order to ensure that all Australians receive access to adequate telecommunications services reflective of changes in technology requirements;

(h) whether the current regulatory environment provides participants with adequate certainty to promote investment, most particularly in infrastructure such as optical fibre cable networks;

(i) whether the current regulatory regime promotes the emergence of innovative technologies;

(j) whether it is possible to achieve the objectives of the current regulatory regime in a way that does not require the scale and scope of regulation currently present in the sector; and

(k) whether there are any other changes that could be made to the current regulatory regime in order to better promote competition, encourage investment or protect consumers.

4. SETEL Comments on Terms of Reference

(a) *whether Part XIB of the Trade Practices Act 1974 deals effectively with instances of the abuse of market power. SETEL does not believe that this is the case. Few, if any, new entrants seem to have the financial and infrastructure capacity to establish a sufficient market base so as to be able to provide real competition in areas outside metropolitan regions. Sabotage, delays and other tactics seem to be used to hinder the establishment of new services. Market power is also used to limit the effectiveness of successful access seekers to the incumbent's facilities.*

(b) *whether Part XIC of the Trade Practices Act 1974 allows access providers to receive a sufficient return on investment and access seekers to obtain commercially viable access to declared services in practice. From an end-user perspective SETEL sees a paucity of facilities and services based competition in the market servicing small businesses. Where competition does exist it is mainly price-based and can be subject to variations in wholesale access arrangements. The practice of bundling hardware with services allows suppliers to lock-in customers for periods of at least 12 months, during which access agreements may change.*

(c) *whether there are any structural issues in the Australian telecommunications sector inhibiting the effectiveness of the current regulatory regime. The major 'structural' issue affecting the sector is the continued state of uncertainty surrounding the partial ownership of Telstra by the Government and thus the lack of a clear policy direction for telecommunications in general. Compared with the mobile market (with relatively few carriers) competition in the fixed market has been permitted to grow to such a degree that the vast majority, as niche providers, do not provide competitive services to the mass market – residential and small business consumers.*

(d) *whether consumer protection safeguards in the current regime provide effective and comprehensive protection for users of services. These safeguards need to be updated to take account of improvements in technology and thus the expectations of*

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the majority of users. The current safeguards relate primarily to a Standard Telephone Service and tend to focus on the 'lowest common denominator' class of user. See comments on USO. The Consumer Driven Communications Report made a number of recommendations to improve consumer protection and safeguards and responses are awaited. A key focus was on consumers having significantly greater input into all levels of policy and regulatory activity.

(e) whether regulators of the Australian telecommunications sector are currently provided with the powers and resources required in order to perform their role in the regulatory regime. It is an accepted fact that the economic regulator does not have the powers and resources to deal effectively with the largest corporate entity in Australia. The recent example of a year-long competition notice process involving broadband pricing reveals the lack of effective power. The long-term interests of end-users may have been served as basic level broadband prices did decrease but the process took close to one year and few competitors seemed to benefit. The ACA had been subject to criticism about responses to issues such as code breaches and not seeking to amend market behaviour of suppliers acting against the interests of consumers. It is accepted that the ACA is constrained, to a degree, by the limited extent of legislative power embodied in a 'light touch' regulatory philosophy. Accordingly both regulators need stronger powers. SETEL bemoans the premature transfer of telecommunications specific regulatory powers to a generalist (economic) regulator before real competition had been allowed to develop in the Australian marketplace.

(f) the impact that the potential privatisation of Telstra would have on the effectiveness of the current regulatory regime. Much of the concern is based on fear of the unknown but past behaviour by Telstra indicates 'more of the same'. A fully privatised Telstra would require more emphasis being placed on the regulatory regime and less opportunity for Government direction. In a competitive market this may not be of great significance but SETEL feels that the development and roll-out of innovative services and the roll-out of upgraded infrastructure will become even more affected by decisions on commercial viability. The concept of a Government-directed core provider has merit in terms of providing ubiquity of service to all Australians. Many users fear cessation of provision of service in non-commercial areas.

A single core provider is acceptable if the services meet expectations of users and this includes equivalent standards of service throughout the nation.

(g) whether the Universal Service Obligation (USO) is effectively ensuring that all Australians have access to reasonable telecommunications services and, in particular, whether the USO needs to be amended in order to ensure that all Australians receive access to adequate telecommunications services reflective of changes in technology requirements. See following section on USO.

(h) whether the current regulatory environment provides participants with adequate certainty to promote investment, most particularly in infrastructure such as optical fibre cable networks. SETEL has been watching the marketplace for 'solutions' to the 'last mile' problem for a number of years and has yet to see the emergence of effective infrastructure based competition on a widespread basis. We also note the amount of unlit fibre in the ground and the failure of several potential competitors

who based their expectations on rapid acceptance of high-speed data services. Note the SETEL policies seeking the establishment of National Infrastructure Funds or Programs to foster development of 'community' ducting and cabling so as to enhance services-based competition and gain economies from multiple use of infrastructure facilities. SETEL advocates promotion of consortia to utilise these facilities in order to provide a wider range of services to end-users. If we continue to rely on commercial decisions being made by individual suppliers for complete or substantial components of networks we will continue to be offered the piecemeal service currently available.

(i) whether the current regulatory regime promotes the emergence of innovative technologies. It seems to achieve this aim given the diversity of disruptive technologies being tested in the marketplace. However most newer technologies need either a critical mass of user base or high levels of service flexibility to appeal to potential users. One important factor is the prevalence of bundling of services using a single technology and the limitations (either technical or cost wise) of newer technologies in being able to compete with established technologies.

(j) whether it is possible to achieve the objectives of the current regulatory regime in a way that does not require the scale and scope of regulation currently present in the sector. SETEL advocates the development of a national vision to provide adequate levels of medium band and/or broadband services to all Australians. Components of this vision are encapsulated in SETEL's policies on an upgraded USO (funded by the three tiers of Government), the establishment of National Infrastructure Programs to enhance service delivery decisions by potential service providers, an internal structural separation process within Telstra (creating a Wholesale Division operating 'at arm's length' to the Retail Division) and greater powers being given to the ACCC to combat anti-competitive behaviour. Also required is a continuation and expansion of a subsidy program to ensure service provision in non-commercially viable or high-risk areas.

(k) whether there are any other changes that could be made to the current regulatory regime in order to better promote competition, encourage investment or protect consumers. SETEL favours the availability of higher levels of competition in the telecommunications market to promote greater usage of services but is aware of the failure to date of the 'build it and they will come' concept to encourage product/service take-up. Accordingly more focus needs to be placed on educating consumers about the value of better communications services. This does not necessarily involve regulation changes.

SETEL would like to see more innovative approaches to licensing adopted by the Government, particularly in relation to spectrum costs, so that less emphasis is placed on upfront capital payments and 'purchase' costs are returned to Government progressively as the user bases grow. Recent examples of innovative low cost and area-specific spectrum allocations should be continued.

5. Small Business Access to Data services & Up-take of E-commerce

SETEL remains concerned that neither the supply side of the market nor the policy makers are effectively addressing the issues that are impeding the uptake of e-commerce by small, micro and home-based businesses.

There are three main factors: Access, Comprehension and Application.

- **Access**

Access relates to the capacity of these businesses to acquire affordable broadband services. Despite the rhetoric about the 'success' of broadband rollout there are a significant number of non-metropolitan and suburban small, micro and home-based businesses unable to access higher speed data services in a manner they can comprehend or at a price they can afford.

The \$108m HiBIS program appears to be gaining momentum but has resulted in 5700 claims (amounting to \$13.8m) by the end of January. Departmental sources estimate that 20-25,000 services will be connected by the end of the financial year. What happens to the remainder of the population wanting broadband since this program only applies to regional areas, not to outer metropolitan areas?

SETEL believes that the HiBIS initiative is good, but very limited in scope. We note that 27 providers have registered with the program to supply services but that over 60% of claims to date have been lodged by Telstra. We expected the subsidy scheme to provide incentives to providers other than Telstra to overcome network blockages and thus broaden competition in the broadband market.

Commercially focussed demand recognition models are not sufficient to generate facilities upgrades. Since April 2004, Telstra has upgraded 260 exchanges for ADSL and a further 260 have been 'approved for upgrade'. SETEL has sought mechanisms to develop local or regional demand aggregation programs to achieve better broadband/ADSL supply for some time.

The Minister for Communications, Senator Coonan, is quoted as saying "Access to broadband services is critical to the ongoing productivity and survival of our businesses." However access is only one part of the process since, once achieved, the small business user needs to become fully acquainted with the 'product', the pitfalls, the remedies for problems and mostly non-comparable alternatives before applying the product/service to improve business operations.

- **Comprehension**

SETEL is pleased to see many others recognising that small, micro and home-based businesses are time poor and do not have the resources to become IT experts in an increasingly demanding and complex business environment. Nearly three years ago SETEL called for education programs to upskill business users of telecommunications and e-commerce services. Little or no action was taken and the complexity of IT services has increased significantly, probably to the extent of requiring businesses to employ specialist resources.

The supply side of the industry is failing to create informed users either through their own marketing efforts or by placing greater reliance on retail channel outlets to supply end users (customers). Products and services continue to be promoted on the basis of their performance and technical features rather than the benefits and utility to the customer.

Comprehension of telecommunications and e-commerce services by business users is increasingly affected by security and performance issues. Each week Norton issues at least two significant security updates. Rumours are rife about viruses now affecting mobile phones and the level of spam seems not to be abating. Malware on computers is increasing in prevalence and sophistication. Small businesses are losing faith in electronic transactions and may restrict their activities to trusted sources. There are expectations that even the simple email message will lose its utility.

Performance of e-commerce services remains an issue of concern as more reliance is placed on electronic services for business transactions. Again the onus is on the user to be familiar with the technology, terminology and limitations of the services to be able to lessen time wasting and diversion from core business activities.

- **Application**

Regardless of access and performance issues many small, micro and home-based businesses will attempt to utilise electronic services to facilitate business transactions. For all, the value proposition is imperative. Affordability and relative ease of access and implementation are key initial factors. Ongoing ease of use and reliability are important, as is an element of scalability (as usage grows and new applications are added).

Focussed research indicates that portals are of lesser value to the smaller businesses. Yet there is significant pressure by Governments and big business (through supply chain mechanisms) for small, micro and home-based business to rejoice over the availability of labour and time saving services available through portals focussed on the business sector.

SETEL contends that there is a digital ceiling created by the mentality within the Government and Big business sectors that since they have access to super fast and reliable data services, all businesses can easily access and effectively use important information sources and services. Greatly improved access to broadband services will alleviate this problem yet the training/education needed to prove the value proposition remains largely absent.

Last year SETEL questioned the accuracy of statistics being used to formulate and justify policy in relation to broadband rollout. Too much reliance was placed on figures that skewed results of e-commerce uptake and usage. A comprehensive set of data produced through the amalgamation of a series of benchmarking surveys by Queensland firm Digital Business insights shows 15% of SMEs either have no computer or do not even use email, 60% are basic users of electronic services (mainly emails) but can't/won't use portals and the remaining 25% are above average users of computers and associated services. The firm benchmarks businesses by industry category and determines their stage through a seven-stage e-commerce journey.

This form of information is far more reliable as an indicator of e-commerce uptake by SMEs as it factors in access to broadband, the security issues and, most importantly, the value proposition.

6. Competition in the Marketplace

SETEL believes that competition in the telecommunications marketplace has not developed sufficiently, and is not developing fast enough, to meet the needs of small, micro and home-based businesses (particularly those located in non-metropolitan areas). Most of the benefits of competition in the telecommunications market have been experienced by big business. Significant cost reductions in long distance voice telephony have been offset by near-monopoly activity in line rentals. The large numbers of carriers with their own infrastructure in the mobile telephony area has only recently started to result in the delivery of innovative competition despite the maturity of that market.

Migration from dial-up data services has been slow as reliance on alternative technologies such as wireless and satellite has not delivered effective competition at affordable rates. SETEL believes that the pace of rollout of medium band and broadband services has been impeded by the lack of effective competition. Alternative technologies to in-place wireline services are mainly deployed where critical mass take-up is virtually ensured. Risk-taking is low. Commercial considerations dominate supply decisions in areas deemed to be uneconomic for facilities upgrades and the USO regime perpetuates an outdated slow speed voice centred service.

7. SETEL's Policy "Wish-list"

TIER 1. Aims/Statements

All Australian small, micro and home-based business telecommunications users should have access to competitively priced, innovative, quality services equivalent to, as far as possible, world's best practice.

- **Competition**

SETEL favours strong competition between telecommunications carriers and service providers. Regulation, policies and funding programs should be designed to foster innovation and the development of competition in a range of services throughout Australia with the aim of delivering pro-competitive outcomes for all end users.

- **Innovation**

SETEL encourages the development and deployment of new technology and services as a way of fostering competition and encouraging adoption of e-commerce and new applications e.g., IP and Wireless based services.

- **Funding the USO**

The Universal Service Obligation (USO) should be funded by the three tiers of Government to conform to social policy and regional development initiatives. (Alternatively USO contributions should be directed to an industry infrastructure fund to enhance provision of competitive infrastructure and services in all areas.)

- **Access**

Any-to-any connectivity is critical to effective competition and, consequently, to end-users. Access to competitors' networks should be provided on cost-based and non-discriminatory price and non-price, terms and conditions.

- **Anti-competitive behaviour**

Market power should not be allowed to stifle competition. Regulatory authorities should try to prevent abuses of market power by using information gathering and reporting powers to keep markets informed. Where necessary, regulatory authorities should have the powers and resources to respond quickly to instances of abuse of market power.

- **Broadband connectivity**

All Australian small, micro and home-based business users should have DSL equivalent access at speeds of 256 Kbps and broadband access at speeds of 2Mbps or more. To maintain competitiveness, Australian users should have broadband availability, speed, data download and prices at world's best practice. Government policy and funding programs should foster innovation and deliver pro-competitive outcomes for end-users.

- **Regional Communications**

Users of communications services in regional Australia should have access to the same range of services, at the same prices and levels of service as metropolitan users.

TIER 2. Programs (to be implemented to facilitate access by small, micro and home-based businesses to faster data services.)

Introduction (Programs)

SETEL wishes to see tangible Government policy and program advancements to ensure that effective competitive supply of broadband (wireline ADSL and cable) services is fostered throughout Australia. A form of facilities-based competition is preferable. Disruptive technologies, such as wireless, are not seen to be sufficient to provide sustainable competition to wireline services in the business data market.

Small, micro and home-based businesses can benefit from the implementation and rollout of wireless services in the short to medium term as their requirements for very high speed data services have not yet been developed, mainly due to the paucity of applications available. Geographic availability and price sensitivity remain key inhibitors to adoption of wireless services by many small, micro and home-based businesses.

The “Build it and they will come” concept of infrastructure development has not been successful with the small, micro and home-based business sector. The lack of an identifiable value proposition remains a key factor. Furthermore the supply side of the industry places excessive reliance on the user/demand side to comprehend and assimilate complex technologies. For time-poor small, micro and home-based businesses the reliance on DIY services and the growing threat of malware creates significant barriers to adoption.

SETEL supports the development of trusted intermediaries and local/regional ‘ownership’ models so that assistance and guidance is made available to users in order to facilitate uptake of new services. The continued reliance on service providers and channel partners to retail products and services, of growing complexity, to small, micro and home-based business users is holding back adoption rates.

SETEL accepts that many small, micro and home-based businesses are fearful of the impacts on future supply of services and provision of new services in non-metropolitan areas following the sale of the remainder of Telstra. Reliance on current regulatory mechanisms is not considered to be adequate. Users remain unconvinced that the marketplace will supply the required services and level of service in all areas of Australia. Commercial activities to date have seen too many new service offerings limited to metropolitan areas (understandably in many cases where a certain level of user base is critical for success).

In its SME E-commerce Report of July 2002 SETEL featured the need for demand aggregation activities at both regional and industry sector level. That situation still applies. SETEL supports the introduction of a program to incent regional communities to secure control over infrastructure ducting and cabling facilities to foster competitive supply of services.

SETEL will promote the following concepts:

- **National Infrastructure Duct Program** – Governments to promote (and subsidise if necessary) a national program for the installation of infrastructure ducting in all metropolitan, outer metropolitan, regional and rural communities (including country towns in excess of a population of 50 persons) to enable regional communities to take greater control over communications services of relevance and benefit to their communities.
- **National Infrastructure Cable Program** – Governments to promote (and subsidise if necessary) a national program for the installation of infrastructure cable in all metropolitan, outer metropolitan, regional and rural communities (including country towns in excess of a population of 50 persons) to enable regional communities to take greater control over communications services of relevance and benefit to their communities.

In the interim SETEL sees merit in making currently available services more accessible to potential users. For a significant number of small, micro and home-based businesses the availability of faster data services through ADSL can achieve efficiencies within their businesses and will foster the development of new applications as well as usage of a wider range of existing applications. Lack of access

to low broadband speeds (256Kbps) is a major factor in inhibiting the use of the internet for the purpose of improving business transactions and activities. SETEL proposes a process that assists businesses (and residential consumers) to ascertain the true state of accessibility to faster data services provided by ADSL. Frustration can develop when a potential ADSL customer is advised that ADSL is 'available' from the local exchange but actual connection is rendered impossible by distance of in-place technologies.

- **National Register of ADSL-enabled Exchanges** – the Commonwealth Government to maintain a register of all telephone exchanges in Australia that enable the provision of ADSL services to users in that region.
- **Area Maps to signify reach of ADSL service from exchange** - the Commonwealth Government to maintain a register of spatial and area-specific information relating to telephone exchanges in Australia that have been made ready for the provision of ADSL services to users in that region to indicate the ready availability of ADSL services in that region or area.
- **Publicly available register (at suitable level of detail) of existence of RIMS/Pair Gain** features- the Commonwealth Government to maintain a current register of the location of all network facilities such as RIMS & Pair Gains that affect the provision of ADSL services to users supplied by exchanges denoted as ADSL-enabled.

8. Supporting Information

Small business customers are faced with the dilemma of selecting a one-stop-shop provider for all services (perhaps with bundling discounts) and locking themselves into a long-term contract rather than 'playing the market' for a range of competitive services. In many areas there is no competition – due to lack of access or lack of willingness of competitors to invest.

SETEL contends that it is necessary to address the business or value proposition in seeking to interest small businesses in telecommunications issues. In so doing it is considered essential to include information on related matters such as e-commerce, security, privacy and domain names.

In response to the Telecommunications Service Inquiry Report SETEL advocated the need for a new consumer service to raise awareness and understanding of telecommunications products and services.

8.1 E-commerce Uptake by SMEs

SETEL, with support from small business, Telstra and Pacific Access established an SME E-commerce Roundtable/Forum process to make recommendations in relation to accelerating the uptake of e-commerce by SMEs. SETEL chaired a Task Force to progress the outcomes from the Forum and published a set of recommendations.

In response to the Telecommunications Service Inquiry Report SETEL advocated the need for a new consumer service to raise awareness and understanding of

telecommunications products and services. This was adopted by Government and the Australian Communications Authority has since developed a range of valuable Toolkits to assist users to comprehend the range of products and services on offer. SETEL endorses the philosophy of a market-based economy in which users can make informed choices on a range of products and services for their daily living or business needs. In terms of telecommunications products and services a large number of non-metropolitan businesses and residential users have little or no choice above a standard telephone service at affordable rates and, in common with the general population, continue to be confused with the complexity of the service offering of suppliers.

SETEL co-ordinated a major research project on the Barriers to Uptake of e-commerce by SME's several years ago and lead a taskforce to produce a significant set of recommendations designed to overcome the barriers. Those recommendations remain applicable, for the most part, today.

In more recent times SETEL has sought to address the issue of affordable access to adequate bandwidth in non-metropolitan, rural and regional areas. Given the slow development of competition in the majority of those areas a pragmatic approach was adopted to seek, initially, a 'middleband' solution as SETEL was well aware that the economic justification for full-scale supply of broadband services (at reasonable cost) was not present. There is a need to 'raise the bar' from the designated data standard of 19,200 bps under the Internet Access Program.

The SME E-commerce Report revealed that adoption of broadband/e-commerce by SME's was contingent upon a number of factors:

- it had to meet the value proposition of the business,
- it had to be relatively easy to access, install and use,
- there had to be tangible benefits from its implementation and use and
- it should not detract from the core business activities of the enterprise.

The last point was seen to be of prime importance as the complexity of the majority of services on offer was so great that considerable expertise needed to be developed or obtained (employed) so as to be able to benefit financially from the investment decision. Even to this day there is a paucity of applications to fully justify the adoption of e-commerce by a number of smaller businesses. Furthermore the lack of adequate training and ongoing technical support, particularly in non-metropolitan areas, remains a major issue.

SETEL has been monitoring the uptake of broadband services in Australia and has continued critical comment on the tendency to misreport success levels. Recent figures reveal just over 1.5 million services in place. SETEL estimates that this accounts for approximately 15% of all users in Australia - allowing for some degree of 'double counting' in relation to business (micro and home-based) and residential users.

A theme regularly followed in SETEL submissions is that the "availability" of broadband or digital data services in Australia does not necessarily equate to accessibility to residential and small, micro and home-based business users. One factor is the 'conversion' of ADSL enabled exchanges into actual supply to an end user. Out of approximately 5000 exchanges in Australia 1400-1500 are ADSL-

enabled but a number of these are affected by RIMS and pair gains which inhibit the supply of ADSL to the end user. Potential broadband customers are then faced with generally unacceptable alternatives such as ISDN or satellite services (and in some cases CDMA-based wireless technologies).

The recent rapid growth in uptake of broadband (ADSL) services has been mainly due to retail price-cutting by Telstra on basic services such as a 256K ADSL service with a 200Mb monthly limit. High excess usage charges apply above that low level and can impose a severe financial burden on a new business user experiencing the benefits of upgrading from a slow dial-up service. Other suppliers choke speeds after specified usage limits thus severely reducing the benefits of so-called broadband services.

SETEL is concerned that the attractiveness of current broadband packages is essentially price related and that no concept of the need for a business grade service exists to any degree. Yet businesses are being exhorted into installing broadband services for reasons of efficiency and access to new applications, and they are unlikely to experience anywhere the expected full gains with a standard residential grade service.

We have sought to address issues such as commercial viability through our comments on a new model for the Universal Service Obligation on the basis that, after seven years of 'competition' in the telecommunications industry, we still do not have an effective level of infrastructure-based competition and thus continue to fall further behind other OECD countries in adopting broadband services.

SETEL considers that State Governments can assist in the process of 'encouragement' of policies to ensure that regional Australia is able to take advantage (much earlier) of developments in communications technologies, particularly for business use and applications. Those developments can lessen the technology and information gaps between regional/rural users and their city counterparts and assist in regional development aims. Currently the Commonwealth Government is 'hindered' by its ongoing need to reach an adequate 'strike price' for the sale of the remainder of Telstra and its reliance upon light-touch regulation in a market where effective competition has not yet developed.

Small businesses and most residential users in non-metropolitan areas have been awaiting the availability of promised advanced telecommunications services for a decade. Subsidy schemes have provided a glimmer of hope and have improved availability albeit at a slower than expected rate. New market entrants continue to 'cherry pick' in areas of proven demand and Telstra's CAN remains as the sole mode of access for many suppliers and users. Disruptive technologies, including wireless services, continue to show promise but supply has not yet reached the critical mass to appeal to the value proposition of the majority of users. So effective choice remains largely unavailable.

Unless initiative is shown by policy makers excessive reliance will be placed on conservative commercial practices to provide upgraded services. If a national vision cannot be achieved perhaps innovative State Governments can set the tone by facilitating the rollout of broadband services to enrich regional communities. Care

must be taken to avoid the 'silo mentality' of restricting high capacity broadband services to key government institutions, such as those in the health and education sectors. All potential users, both business and residential, must be able to leverage off high capacity broadband access services and infrastructure provided to the key users in any regional centre or area.

SETEL sees a need for local government to co-ordinate representation in conjunction with State government services and local business groups to facilitate provision of infrastructure and supply of suitable services so that demand aggregation can achieve economies of scale from ongoing (and growing) usage.

8.2 How to future-proof Universal Service?

SETEL considers the USO to be outdated in its current form. But there remains a need for such a scheme. Targeting the 'lowest common denominator' is no longer suitable. There is a need to raise the benchmark. The situation will intensify and the need will become greater post T3.

There are fears that a fully privatised Telstra will reduce or fail to maintain services in non-profitable areas. In any commercial market suppliers will not enter into supply arrangements where the cost of provision outweighs the revenue obtained. So it is likely that, in the absence of a USO arrangement, no carrier or CSP would opt for a commercial decision to supply services in non-profitable areas.

As the current Universal Service supplier, all the focus is on Telstra to maintain and upgrade supply. In an open market all suppliers would take advantage of opportunities to 'cherry pick' and thus effectively deny service to selected areas.

Two fundamental issues for Small, micro and home-based businesses

1. Majority of national telecommunications network delivering services to small business and residential consumers is based on a "standard telephone service"

Rated at 3500 bps for analogue voice + a 'ramp-up' to 19200 bps under the Internet Access Program. This is certainly not fast enough for business data use.

Most current consumer safeguards centre on this standard service – customer service guarantee, universal service obligation, untimed local call areas. A DDSO – digital data service obligation does exist – but at considerable cost (in time and money) to users or potential users.

There is a significant amount of vastly under-utilised broadband infrastructure available in Australia but its effective use is constrained largely by access issues and problems. ADSL rollout and availability are improving yet uptake is lagging. What are the main factors?

2. Small, micro and home-based business consumers are not yet convinced that a "value proposition" exists for broadband or medium band services.

The complexity in the telecommunications marketplace is excessive from a consumer perspective. A preponderance of 'plans' and offers generally creates confusion rather than offer realistic choice. Education & training can address this issue from a small business perspective but the users need to be convinced of the value of their investment in both time and money. To date there are insufficient applications available to convince many small businesses that it is worthwhile to progress to the next step in the e-commerce journey.

These factors contribute to the existence of the digital divide and a digital ceiling. Availability of the technology is not the only issue – accessibility, affordability and utility affect decision-making.

At present the focus is on placing requirements on the market to deliver higher grade and speed services. Setel believes that all three tiers of government can play a leadership role in promoting the rollout and use of higher speed telecommunications services by providing subsidies whilst facilitating the more effective distribution & utilisation of their own services to the public at large, right throughout the nation.

Commercial imperatives will operate to ensure that ubiquitous high-speed services are not made available to all Australians at reasonable prices – or prices commensurate with expected usage and benefits.

- **USO - SETEL views**

The current USO focus on a single carrier has resulted in a slow and patchy rollout of new technologies.

- **Inefficiencies**

SETEL is concerned about the considerable amounts of time and money devoted to the very complex process of assessing, administering and defending the USO, by the government, business and community sectors. We note that this expenditure and diversion of resources affects Government, the Australian Communications Authority, a number of carriers supplying eligible services, legal advisers, consultants and consumer groups so the true cost of the regime is significantly wider than the 'announced' cost of the scheme.

- **Cross Subsidisation**

SETEL is concerned about the extensive cross subsidisation in the telecommunications market that contributes a detriment to residential and small business users. The designated USO provider operates in both the general market and the eligible revenue market. A number of carriers and Carriage Service Providers (CSPs) provide services to corporate and government clients at price levels based on infrastructure costs that do not include operation of a PSTN or public Customer Access Network (CAN).

The providers of eligible services (to residential and small business consumers) are obliged to factor into their pricing models the cost of operating or accessing the CAN and this, when taken in the context of supplying competitive services to those

provided by non-eligible revenue carriers and CSPs, can be considered to result in a degree of cross subsidisation favouring the corporate and government customer.

SETEL contends that the major proportion of the eligible revenue related cost is borne by the residential and small business markets in terms of higher prices to the detriment of consumers in these markets.

- **State Government Network Development (Silo Problem)**

There is evidence of substantial involvement by State and local Governments in developing broadband infrastructure and connection to selected government instrumentalities and premises (schools, hospitals, libraries, community tele-centres) without making those services available to general residential and small business consumer market segment use. A number of Federal Government programs are supporting this process by concentrating diversion of subsidy funding into services for the health and education sectors – heavily biased toward State Government interests.

If the residential, small business and general business communities cannot leverage off these infrastructure improvements for the long awaited supply of faster data services (including broadband) then more emphasis is placed on the competitive marketplace (where it in fact exists) or the designated USO provider to apply the infrastructure investment necessary to upgrade the communications services to a level similar to that available to those in metropolitan areas.

SETEL notes that the lack of widespread competition in areas other than central business districts (CBDs) has also limited the access of a significant number of residential and small business users to higher speed data services (now becoming accepted as a ‘basic’ for Australians).

A continuation of the split model of infrastructure rollout (favouring government programs and interests) renders more urgent the need to review the effectiveness of the USO in terms of its limitation to the Standard Telephone Service. Segregated infrastructure access will create different classes of user and not take advantage of the economies of scale available from a sharing of resources. Full community involvement is essential to stimulate demand and to render, in many situations, the provision of higher data speed services commercially viable. The creation of a “digital ceiling” should not be permitted to disadvantage opportunities for access to faster data services by non-metropolitan, rural and remote users.

- **Need for Policy Upgrade – Extension to Consumer Safeguards**

SETEL notes that the RTI found “that the universal service regime is not an effective mechanism for providing broad consumer access to a range of services in the future” and strongly supports this finding.

SETEL, in representing the e-commerce and telecommunications interests of small, micro and home-based businesses in Australia, considers that the concept of a Standard Telephone Service (STS) is of significantly diminished relevance to these classes of business as it restricts the elements of protection to basic voice and fax services. Improvements have been experienced in wireless (mainly mobile) voice services but businesses today are placing greater reliance on efficient data services to

conduct business operations. Retention of the STS as the basis for the USO and CSG results in these important consumer safeguards providing substantially less benefit to the SME sector.

However, SETEL supports the continuation of a form of USO for telecommunications services, but at a higher level of achievable data speed, more relevant to the current and growing needs of most residential and small business users in Australia. There is growing volume of support from both Government and industry for broadband services to become the accepted norm for Australian users.

Admittedly not all users will be able to afford or choose to utilise higher speed services and an effective program must be maintained to support those with recognised disadvantages, including the inability to pay for more-than-basic services.

SETEL's *Bootstrapping to Broadband* concept sought to maximise the benefits available through Telstra's ISDN facilities to be able to provide a reasonable grade of data speed, combined with a quality voice service, to all those currently connected to the PSTN. Economies of scale should operate to stabilise or even lower costs of access and usage for some classes of residential user.

- **USO Funding**

A new model requires involvement in, and potential contributions to, the USO by Commonwealth, State and local governments, in particular in relation to the benefits to regional development programs and delivery mechanisms for government services to the public (including business). This will enable alternative approaches to the funding of the USO and DDSO (rather than directly by carriers and carriage service providers) to be considered.

Increasingly State and local governments are seeking to deliver community services (and require access to their own services) electronically, to maximise dissemination and to gain from cost efficiencies. These services can play a major role in invigorating regional communities, enabling them to gain access to a wide range of information and services previously restricted mainly to metropolitan residents.

SETEL believes that principal responsibility for 'funding' the USO should not necessarily rest with participants in the telecommunications industry as many others (State and local government bodies included) have a vested interest in seeking to remove the "old economy" tag, now burdening Australia in the global marketplace, by enabling increased participation in the nations' commerce by residential and small business consumers in non-metropolitan areas.

In SETEL's view, Budget funding for the USO is superior to other options as it:

- is likely to promote a more competitive and efficient industry, more responsive to the needs of Australian telecommunications users, notably small business people;
- provides measures of transparency, accountability and equity, absent under current funding arrangements;
- ensures competitive neutrality between USO providers;

- provides scope for the management and targeting of the USO subsidy to those who meet "eligibility" criteria;
- should lead to an increase in Budget revenues;
- ensures that USO subsidies (one form of welfare and assistance funding) are subject to annual review, and competitive Budget processes against other programs thus leading to a more equitable distribution of such funding in general and USO funding in particular; and
- minimises regulatory intervention, market distortions and regulatory costs.

As mentioned above, SETEL is increasingly concerned that the State Governments are moving away from this model by being permitted, and even encouraged, to invest in or support their own infrastructure development – exclusively for their own use. This is a disquieting trend.

- **Universal Service Obligation & Customer Service Guarantee Issues**

SETEL recommends that:

- Cognisance be taken of the extensive involvement in, and potential contributions to, the USO by state and local governments, in particular in relation to the benefits to regional development programs and delivery mechanisms for government services to the public (including business) so that alternative approaches to the funding of the USO and DDSO (rather than directly by carriers and carriage service providers) can be considered.
- Mechanisms or incentives be provided to enable carriers and carriage service providers to meet unmet needs in relation to voice and data services, of far higher standards than currently being provided under the USO, throughout much of Australia. (SETEL suggests that gains derived from the sale of spectrum could be used to fund such incentives.)

SETEL seeks higher bandwidth services suitable for business-to-business e-commerce, business-to-government communications and reasonable speed data transmission being accessible, affordable and easy to use by small businesses.

- **An Alternative Funding Scenario** (much less preferable!)

If a decision is made to retain the USO largely in its current form, requiring contributions from carriers and CSPs to the USO fund, SETEL submits that consideration be given to extending the requirement to contribute to all carriers and CSPs. The key beneficiaries of the USO (residential and small business users) are those who stand to be disadvantaged by cross subsidisation in favour of Business and Government customers.

By increasing the scope for revenue contributions from other industry participants, (as part of a carrier licence program), less financial pressure would be placed on current (and future) eligible services providers (providing services to the small business and residential segments of the market) thus stimulating the likelihood of broader competitive supply and the potential for offering additional and innovative services.

Such a funding process may contribute to the upgrading of the basic, Standard Telephone Service to the majority of non-metropolitan, rural and remote users.

9. Summary

SETEL welcomes the Senate Committee Process scrutiny of the telecommunications regulatory regime. We note that consideration needs to be given to those small, micro and home-based businesses and residential consumers who are located between CBD areas and the start of the regional areas and are unable to gain access to adequate medium-high-speed data services suitable to meet their needs derived from expectations of being able to experience services available to their city 'cousins'.

SETEL's views are predicated on the basis that economies of scale can be obtained from far wider provision of improved services. We feel that commercial decision making by suppliers impedes the broader rollout of desired infrastructure and thus an updated USO mechanism, combined with appropriate subsidy schemes and legislative/regulatory controls, will deliver much needed competition in non or low profitable and high risk areas and thus provide ubiquity of service at a much higher level of data speed and quality. The potential for scalability and upgradeability is also vitally important if networks and services are to have a degree of future proofing.

In essence the scope of the review process needs to be broadened to include future Government policy to promote better communications facilities to all Australians. The concept of improving the regulatory environment is fine but the current application is wanting. We have been waiting for effective competition since 1997 and the sense of frustration is being felt in a growing number of circles. The economic inefficiencies must be costing this nation dearly, either through business failures or lost opportunities. We want an opportunity to influence a process (or regime) that will deliver equal levels of communications service throughout the whole nation, not just the 'bush'. This review process can contribute to this aim.

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