



## Digital Tasmania Submission on NBN Regulatory Issues

### *A Tasmanian Perspective*

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## ***Background***

Broadband consumers in Tasmania have historically been at a disadvantage compared to users in the mainland states. Tasmania's unique geography, low population density and physical separation from other states by 300km of ocean means that historically, Tasmania has received what some would view as "second class citizen" treatment by some broadband providers.

In recent years, the Tasmanian Government has taken many proactive steps towards improving access to broadband, including the investment in fibre optic cable laid alongside gas pipelines into all the major population centres, and ensuring that fibre optic cable was laid across Bass Strait along with the Basslink electricity interconnector.

Whilst it has been a long and at times rocky process, Tasmania is on the verge of realising the benefit of these strategic investments. Given the appropriate regulatory environment, Tasmania can flourish under a National Broadband Network. The wrong framework however could see massive waste of State and Federal taxpayer money on competing networks, neither of which will deliver maximum benefit to the Tasmanian community.

## ***Key Issues***

Digital Tasmania submits that the key issues in regulation of the National Broadband Network for Tasmanian consumers revolve around ensuring that:

1. consumers are not disadvantaged by the changeover to an NBN-delivered broadband service,
2. that existing investment in fibre optic backhaul is not wasted,
3. access seekers on the NBN must not be "locked in" to using NBN backhaul, and
4. that Tasmanian broadband consumers and access seeking ISPs should not be disadvantaged if the Tasmanian Government's part proposal for State-based NBN funding is successful.

## **No disadvantage**

Consumers, from those at the budget end of the current broadband market, through to so-called "power users", should be no worse off under an NBN delivered service compared to the price they pay for broadband delivered by their current ISP.

**The panel must consider a regulatory framework which would apply a "no-disadvantage" test to any proposed wholesale pricing model.**

The NBN process has specified a minimum deliverable bandwidth, however it is silent on the subject of what a fair market price would be for such access. Consumers must have access to ADSL-comparable speeds at similar prices during the switchover to NBN, either through the NBN itself, or through the preservation of existing ADSL hardware.

We believe that it is the consumer's right to choose what they consider to be an acceptable broadband access speed, and what they are willing to pay for that service.

The role regulation plays within this is crucial, ISPs must be able to access the NBN at competitive rates compared to the existing ADSL wholesale port costs.

**The NBN panel should implement a regulatory framework which would require the successful proponent provide 256kbps, 512kbps and 1.5Mbps wholesale products at pricing equivalent to or better than current market rates.**

This would enable ISPs to continue to offer these “low-end” broadband services to their customers. To do otherwise may indeed force some broadband users back onto dial-up services, which they may consider to be better value for their needs.

### **Protect existing Tasmanian broadband investments**

The Tasmanian State Government has already invested over \$30 million of taxpayer funds into the provision of fibre optic networking covering the major population centres of Tasmania. Given the foresight shown by the Tasmanian Government in investing in this infrastructure, the taxpayers do not want to see this asset made obsolete.

**Any regulatory changes required to implement NBN must protect and maximise these existing investments.**

In regard to interstate fibre optic infrastructure, Basslink Telecom is currently in the process of commercialising their fibre optic cable which, when enabled, will interconnect Tasmania and Victoria. The route from Melbourne to Hobart (which this cable will form part of) is currently a declared service, over which the ACCC maintains pricing control.

**This declaration must be preserved regardless of the outcome of the NBN process, until such time as a 3<sup>rd</sup> competitor enters the market for this route.**

**Furthermore, the panel must give consideration to how this current declaration will be enforced in relation to the services provided over the route by any NBN operator.**

Many ISPs have invested in their own exchange-based access hardware, such as ADSL2+ DSLAMs in exchanges around the country, including Tasmania. The successful NBN proponent should not be permitted to “strand” this infrastructure and monopolise the local loop by implementing schemes such as e.g. “whole pillar migration” in deploying a Fibre-to-the-node network.

**It is necessary that the panel examine the issue of local loop access in the current regulations, and consider the possibility of altering this to allow “mid-point injection” of FTTN services while preserving the existing local loop.**

This would enable co-existence of existing ADSL and ADSL2+ services with an NBN delivered over phone lines via the newer VDSL2 standard, preventing the stranding of current infrastructure, and enabling independent investment in non-NBN infrastructure by ISPs seeking to differentiate their service offerings.

## **“A la Carte” approach for access seekers**

The NBN should leave access providers free to seek intra- and inter-state backhaul at competitive prices. To do otherwise we believe would be an unfair restraint of trade upon ISPs who have acquired their own backhaul services.

This is particularly critical in Tasmania, where ISPs must currently move data into and out of the state via a monopoly provider at a cost many multiples higher than that paid between many other mainland capitals.

**The panel must ensure a regulatory framework in which access seekers are able to pick and choose which parts of the NBN infrastructure they use, particularly where they may have existing infrastructure or the ability to acquire backhaul services at a more commercially attractive rate.**

This would provide the opportunity for ISPs servicing Tasmania to independently negotiate access on a commercial basis to the Tasmanian intra-state fibre network, and capacity on the Basslink fibre, ensuring existing investment is not made obsolete. Such interconnection could conceivably occur within an FTTN network at the node itself, at existing Telstra exchanges, or any other logical point of aggregation/presence.

## **Ensure fair dealings with operators of Victorian NBN**

In the event that the Tasmanian Government lodges and is successful in a part proposal, the regulatory environment must ensure that ISPs servicing Tasmania via the NBN in the future are not unfairly disadvantaged, as they currently are, by the cost of data transfer into and out of the state.

Unless another interstate fibre optic cable is laid, the Tasmanian NBN will need to interconnect with the Victorian NBN operator. Tasmanians should not be penalised due to the size or composition of traffic flow into and out of the state.

**The panel must implement a regulatory framework in which interconnections between different NBN operators are on an equitable basis, regardless of the size or composition of the market served.**

## ***Conclusion***

Digital Tasmania welcomes the opportunities for improved and equitable broadband access that a successful National Broadband Network will bring to Tasmania. In assessing the various proposals, the expert panel must give consideration to the unique needs of smaller, less populous states such as Tasmania, who are already disadvantaged in the existing broadband market.

The panel must ensure that there is some form of “no-disadvantage” regulatory test applied so that users of budget broadband services do not become second class citizens of the information economy, but instead are able to utilise broadband services to improve their socio-economic standard. Digital Tasmania suggests one way to achieve this is mandating the provision of ADSL-equivalent wholesale ports at current or better than market rates paid for the existing ADSL ports.

Digital Tasmania seeks a regulatory framework which addresses the current disadvantages experienced by Tasmanian broadband consumers, particularly in the area of intra- and interstate backhaul. Significant taxpayer money has been invested in resolving these issues; these assets must not be made obsolete.

Digital Tasmania believes that considered regulation is required to ensure competition is encouraged and access seekers are free to seek commercial arrangements with both NBN and other non-NBN operators on an “a la carte” basis. This not only ensures a level playing field can be created for all access seekers across the entire National Broadband Network, but offers ISPs the ability to differentiate themselves from the competition through competitive commercial arrangements.

Digital Tasmania believes that the panel must give careful consideration to the special requirements inherent in a State-based Tasmanian part-proposal with respect to interconnecting across Bass Strait with other NBN operators.

Digital Tasmania appreciates this opportunity to put forward its views of regulatory issues surrounding the National Broadband Network as they relate to Tasmanian consumers.

### ***About Digital Tasmania***

Digital Tasmania is a consumer action group, created to give a voice to the views and needs of Tasmanian consumers in the digital age.

As Australia's island state, Tasmania faces unique telecommunications challenges. Our low population, physical separation from mainland Australia and distributed population are all unique factors that impact on how telecommunications are delivered in our state.

Our goal is to strive for improved fixed, mobile and broadcast communications services through market competition and regulation that is in the interest of the consumer.

Digital Tasmania is a non-profit organisation and relies solely on funds and in-kind donations from supporters.