

22 March 2008

National Broadband Panel of Experts

GPO Box 2154
Canberra ACT
2601 Australia

To Whom It May Concern:

Re: Comments for Submission: National Broadband Network (FTN)

In response to your request for submissions, we would like to contribute some brief comments from our limited expertise and experience, in the hope that this might assist in directing the construction of the envisioned fibre-based national broadband network. It is our sincerest hope that this project can be undertaken with an eye towards the medium-term future, and learn from the mistakes of the past – which we consider to have resulted largely from the inherently short-term focus of the political process.

At the core of our view is a belief that the installation of fibre-based network elements to support much higher bandwidths than pre-existing copper-based elements is a maintenance task that would ordinarily have been undertaken by the network operator, in response to higher bandwidth demands from existing customers, new customers, and new products.

We consider that the network operator – in this case, Telstra – has chosen to withhold investment in this maintenance, as a short-term avenue to increase profitability and support dividends paid to shareholders (including the Australian Government). We do not wish to review the accounting treatment of the declining value of this asset, but merely to note that the network has remained essentially stable, while the industry has moved forward around it.

We see two key implications of this situation. First, in the current political and economic environment, Telstra would be, at best, a poor steward for Australia's evolving network requirements and capability. Second, a major investment in telecommunications infrastructure will only be self-perpetuating if it also changes the current political and economic environment with respect to this industry.

No doubt you will receive many other submissions detailing the concomitant failure of the intended competition regime which was expected to evolve from the partial privatisation of Telstra, which we will not repeat. We, among many others, consider that a large part of the this failure derived from the missed opportunity to separate Telstra's retail arm, which is naturally subject to competition, from its network operations component, which constitutes in large part a 'natural monopoly.'

It is our hope that Telstra's desire to attract further public funding to undertake the deferred maintenance of the network (upgrading it *en masse* to fibre) may be strong enough for the firm to be willing to undergo this structural separation as a condition of the funding. We recommend that this split be conducted over not more than 18 months, at which time an *in specie* distribution of shares in a new wholesale-only network operations firm be made to existing shareholders. The existing organisation would undertake all existing retail relationships, and would compete on an equal footing with other retail telecommunications operators/resellers.

In the more likely event that Telstra refuses this condition, we consider that the only viable path to creating an appropriate level of competition in the Australian Telecommunications industry is to encourage the growth of one or more other, similarly integrated companies in competition to Telstra. The quicker this can be accomplished, the better.

Towards that end we suggest that the simplest and most effective route may be some form of prohibition on Telstra implementing further network infrastructure. Such a prohibition would

allow other operators to implement local, new technology or niche network infrastructure without the currently biggest impediment – the risk that Telstra can, at any time it chooses, implement a competing product faster, with greater backing and scope than any other Telco in Australia, effectively 'stranding' their infrastructure investment.

While Telstra management and shareholders will no doubt see this as an extremely unwelcome limit on their growth, we note that such a constraint would only remove Telstra's ability to compete on scale and scope, which monopoly powers were never intended for the firm to retain. From a customer perspective, some years spent competing on efficiency, reliability, capability, service and price would be time well spent for Telstra. These areas certainly provide fertile ground for growth and development, without the stultifying effect of domination on the rest of the industry.

An added advantage of either of these schemes is that they have the potential to leave the government's considerable potential financial contribution to the project to be directed towards those areas where current technologies (including wireless, satellite, fibre and others) are uneconomic – particularly in 'the bush.' In this respect, where these relatively basic economic tools are applied to help bring the Australian telecommunications industry towards a normal competitive economic market, relatively simple subsidy mechanisms can serve to encourage the broadest coverage scope with a minimum of economic distortion.

Specifically, we would propose for coverage to be maximised by provision of a rural & remote subscriber subsidy, on a per-subscription basis, generally fixed for a period of time commensurate to the life expectancy of the infrastructure. While subsidy levels may be negotiated at program initiation or implementation of new infrastructure, price certainty should be provided over a reasonable time horizon, to prevent speculation and arbitrage.

As a third and last resort, the provision of funds to the existing consortium of competing Telcos (without any constraints or limitations on Telstra) would seem to provide the most politically expedient solution. We expect that this solution is likely to exacerbate the current environment, in which Telstra is strongly motivated to enhance it's own position through delay and the prevention of progress by others. The formal use of such tactics as we have seen in the press and elsewhere in the last few years is dwarfed in importance by the informal application of delays, inconveniences and obstacles at literally thousands of points of interaction – and this will only get worse, at an enormous cost to the economy and to customers.

Finally, we should clarify that we are making this submission largely out of fear. We fear that providing additional funding to Telstra to undertake the maintenance it should have been doing for the last few years will only encourage it to repeat this pattern in future. Also fear that providing Telstra an enhanced competitive position will serve to further block out potential competitors which are already struggling to survive Telstra's 'scorched earth' competition. And fear that providing the enhanced investment security that Telstra seeks, will create a privileged position for Telstra which is not available to anyone else in this or any industry.

We realise that we have not provided any deep analysis or terribly new insight, but our hope is really only to illustrate that there are quite a few people out here who understand the issues, and understand how politically difficult Telstra has made it for the government to do the right thing in terms of broadband infrastructure for the people of Australia. What we want is a fully competitive landscape. What we do not want is a more powerful Telstra.

Regards,



Dr Paul D Hauck, CEO
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