

## NATIONAL BROADBAND NETWORK

Comments by: THE SMALL ENTERPRISE TELECOMMUNICATIONS CENTRE LIMITED (SETEL)

The primary role of SETEL is to advance the interests of small, micro and home businesses as users/consumers of telecommunications services. Its objectives are to:

- Advance and represent the interests of Small Business in telecommunications to: governments; the Federal Public Service (in particular DCITA); the ACMA and the ACCC; the telecommunications industry and 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-coordinating 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 and non-employed businesses, micro businesses (5 or less staff), larger small businesses (including rural businesses) and medium size businesses which make up the SME sector.
- Seek the establishment of consultative mechanisms with carriers supplying the small business market.
- Seek to determine and address solutions for the adoption of e-commerce by associations and their members.

The main source of revenue (93%) is by Commonwealth Government Grant: “The Small Enterprise Telecommunications Centre Limited (SETEL) is supported by the Commonwealth through the *Telecommunications Consumer Representation Grant* Program of the Department of Broadband, Communications & the Digital Economy”.

SETEL is the main source of representation of small, micro and home business interests in telecommunications and e-commerce.

SETEL was established in 1992 as a not-for-profit company limited by guarantee, and is governed by a Board of directors, appointed annually at the AGM. Further details are available on the website: [www.setel.com.au](http://www.setel.com.au).

The Small Business Coalition membership forms the core membership base for SETEL at present. This broadly covers State and regional business organisations. Micro and home businesses are represented by the MHBA.

SETEL has participated in the telecommunications industry's self-regulatory body - Communications Alliance (formerly ACIF) - in all of its Consumer Code development processes. Participation in industry code and other consumer-related activities and processes, where there was a case for representation of small business interests, was also accomplished.

SETEL is primarily concerned with the development of codes of practice and guidelines that address industry behaviour and activities in relation to small business and residential consumers.

SETEL representatives (Executive Director and Chairman) spent a combined total of over 14 years on the Council of the Telecommunications Industry Ombudsman and gained substantial experience in the operation of industry ADR schemes.

## **1. Comments**

SETEL is vitally interested in the outcomes of the deliberations of the National Broadband Network panel of Experts as many small, micro and home businesses (particularly those outside inner metropolitan network coverage) have been taunted by, but steadfastly denied, promises of high speed broadband.

SETEL policies seek an ICT scenario in which Small businesses can take advantage of developing communications technologies to improve their business operations, expand into global markets and maintain a competitive balance with big business.

### **TIER 1. (Aims/Statements) of SETEL's policies state:**

***All Australian small & home 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 & service providers. Regulation, policies & funding programs should be designed to foster innovation & 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 & deployment of new technology & services as a way of fostering competition & encouraging adoption of e-commerce & new applications e.g., IP & Wireless based services.
- **Funding the USO:** SETEL believes that 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 & services in all areas.)
- **Access:** SETEL believes that any-to-any connectivity is critical to effective competition & to end-users. Access to competitors' networks should be provided on cost-based and non-discriminatory price & non-price, terms & conditions.
- **Anti-competitive behaviour:** SETEL believes that market power should not be allowed to stifle competition. Regulatory authorities should try to prevent abuses of market power by using information-gathering & reporting powers to keep markets informed. Regulatory authorities should have the powers and resources to respond quickly & effectively to instances of abuse of market power.
- **Broadband connectivity:** SETEL believes that all Australian small & home business users should have DSL-equivalent access at speeds of 512 Kbps and broadband access at speeds of 2Mbps or more. To maintain competitiveness, Australian users should have broadband availability, speed, data download & prices at world's best practice. Government policy & funding programs should foster innovation & deliver pro-competitive outcomes for end-users.
- **Regional Communications:** SETEL believes that users of communications services in non-metropolitan, regional, rural & remote areas of Australia should have access to the same range of services, at the same prices & levels of service as metropolitan users.

We are mindful of the claims or plans for data speeds of 12+Mbps and consider the initial aim for such a quantum to more than adequate for the current needs of the majority (apart from specialised ICT services) of small, micro and home businesses, particularly if it can be achieved via base-level generic network supply.

SETEL contends that a significant proportion of the S (Small) segment of the SME market has less than satisfactory skills, knowledge and awareness of ICT, how it can fully benefit their business operations, how to implement products/services successfully (without specialist external assistance) and how to remedy faults.

Recent studies have revealed that most Small businesses are not getting value from ICT because their scale and level of operation is insufficient to take advantage of all or most of the components built into modern IT systems, software or hardware, including mobile handsets. SETEL's research indicated that a significant proportion of SME solutions are targeted at businesses comprising 50 or even 100+ employees. These scaled-down big business solutions are still too complex for most small, micro and home businesses.

Add to this the situation of most Small businesses being time-poor and the problems associated with the typical off-the-shelf/DIY ICT solution become paramount. Demographics of age, location, training and lack of ICT skills need to be factored in.

Small businesses need ICT solutions that are affordable and effective in adding value to the business without requiring the attainment of an additional layer of expertise simply to render systems functional. Network systems, delivery technologies and technical jargon simply add to the complexity of upgrade decisions and can delay implementation.

## **2. The National Broadband Network**

SETEL is dismayed that the process of providing widespread, affordable access to reasonable broadband data speeds in this country has been so slow. The promises of effective competition following the 1997 Telecommunications Act have not been met apart from the mobile telephony sector (albeit at considerable high cost to users). Too little focus has been placed on factors other than price-based competition; however SETEL recognises that policy failure, regulatory gaming and risk/uncertainty associated with investment have affected the capacity of network and service providers to record reasonable levels of profitability commensurate with increasing retail market share.

SETEL's policies, developed a number of years ago, recognised the need for non-carrier ownership of network ducting and cabling so as to avoid supply bottlenecks and access discrimination. We recognize the need to update these policies in the light of current developments (which we consider to be in the right direction) but have chosen to include them in this submission to highlight the need for an alternative to an exclusively carrier-owned network dominating communications supply throughout the non-metropolitan areas of the nation.

### **TIER 2. Programs (to be implemented to facilitate access by small and home businesses to faster data services.)**

#### **2.1 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.**

(Facilities-based competition is preferable. Technologies, such as wireless, have the potential to address immediate and short-term supply problems in certain areas.)

Small and home 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 businesses.

The “Build it and they will come” concept of infrastructure development has not been successful with the small and home 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 and home businesses the reliance on DIY services and the growing threat of malware create significant barriers to adoption.

### **Guidance for Users of New Services.**

#### **2.2 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.**

(Continued reliance on service providers and channel partners to retail products and services, of growing complexity, to small and home business users is holding back adoption rates.)

SETEL accepts that many small and home 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).

The SETEL SME E-commerce Report (July 2002) featured the need for both regional and industry sector level demand aggregation activities. That situation still applies.

### **Regional or Community Influence is Important.**

#### **2.3 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.**

In the complex communications market there are several scenarios for competitive supply ranging from simple resale of another's services to full competition. In Australia it is rare for Telstra to be out of any market for long if a new technology shows promise or poses a threat to existing markets. Many of the new entrants have promised or promoted their intention to service the SME sector but few have been successful. The benefits of competition have mostly been experienced by big business and government users. Too often small and home businesses are faced with little or no choice of provider and no access to newer technologies.

Formerly competitors blamed lack of access, at reasonable prices, to 'last mile' infrastructure – that connecting the end user to the exchange. Following some breakthroughs in that area the competitors are complaining about backhaul costs – prices of accessing the major networks between exchanges and being able to channel significant amounts of data across that infrastructure.

The SETEL Tier 2 policies address both situations with the aim of providing sufficient ducting and cabling infrastructure to allow competitors to compete on services. Consideration must be taken of the infrastructure already in place and this includes that of other carriers as well as Telstra.

### **Equivalent Costs throughout Australia.**

#### **2.4 SETEL supports the aim of achieving modern data services being supplied to small and home businesses, at costs equivalent to city services, throughout Australia.**

(A single carrier model could work if that carrier saw fit to invest in the necessary technologies – but in the current quasi-competitive market most new technologies are very, very slow to gain a foothold.)

In the longer term, adequate levels of competitive supply provide the answers to provision of better and upgradeable services. The cost of telecommunications infrastructure is a major disincentive to investment and inhibits implementation of innovative services.

### **Separate Infrastructure Providers**

#### **2.5 SETEL considers there is merit in separating long-term infrastructure components such as ducting and cabling (which can provide economic returns for up to 50 years and longer) from other forms of infrastructure requiring faster payback times.**

## Information on Availability of Broadband Services

- 2.6 SETEL advocates there is a need to create a Register of Designated Areas in which there is deemed to be zero or unsatisfactory availability of broadband services to small business and residential consumers at affordable rates, equivalent to those payable by counterparts in metropolitan areas.**

## Information on Competitive Supply of Broadband Services

- 2.7 SETEL advocates there is a need to create a Register of Designated Areas in which there is deemed to be zero or unsatisfactory competition in the supply of broadband services available to small business and residential consumers at affordable rates, equivalent to those payable by counterparts in metropolitan areas.**

## Proposals for Future Development

- 2.8 National Infrastructure Duct Program – Governments to promote (and subsidise if necessary) a national program for the installation of infrastructure ducting in metropolitan, outer metropolitan, regional and rural communities (including country towns in excess of a population of 250 persons) and where there is a lack of critical infrastructure to provide competitive access to broadband services to enable regional communities to take greater control over communications services of relevance and benefit to their communities.**
- 2.9 National Infrastructure Cable Program – Governments to promote (and subsidise if necessary) a national program for the installation of infrastructure cable in metropolitan, outer metropolitan, regional and rural communities (including country towns in excess of a population of 250 persons) and where there is a lack of critical infrastructure to provide competitive access to broadband services to enable regional communities to take greater control over communications services of relevance and benefit to their communities.**

The development of broadband networks in Australia can be viewed as a form of long-term critical infrastructure. Governments will have an increase responsibility to foster networks and infrastructure that enable them to achieve efficiencies in delivering e-government, e-health, e-learning and e-information. Wireless services can offer 'gap fillers' as well as viable communications facilities and in the short to medium term can be seen as having the potential for overcoming infrastructure limitations, delays in network deployment and avoiding the high costs of wireline broadband access.

## **Access to Backhaul Services**

### **2.10 SETEL prefers to see open access to backbone infrastructure for consumer-related communications services since there is a strong element of public good rationale involved.**

If a single carrier is not able to deliver the necessary level of broadband services throughout Australia provision must be made for telecommunications consortia or community co-operatives to provide the mandated services, particularly in areas where a single 'notional' carrier would apply an argument of lack of commercial viability as a reason for non-supply.

SETEL notes that the Minister has called for the lodgement of details of carrier network facilities so that accurate decisions can be made about matters such as undersupply or lack of competitive access.

### **3. Urgent Removal of Existing Network Impediments**

SETEL contends, and urges the expert panel to act on, that there is an urgent need to remove existing network impediments (RIMS & Pair Gains) that inhibit the supply of even basic ADSL services in a number of metropolitan and outer metropolitan areas of Australia. This should be the 1<sup>st</sup> priority, or even a condition of providing a subsidy package, of any FTTN network program or equivalent.

Residential and Small business users in "affected" areas need to be offered equivalent basic broadband services to those in metropolitan areas. This would remove frustration and complexity about service offerings; it would enhance short-term competition (very relevant if any FTTN or upgraded network developments were to take more than one to two years to implement) and, provided such upgraded networks had the capacity for scalability, would encourage increased usage of data services.

SETEL has long maintained that the lack of effective reasonable data speeds available to Small businesses has inhibited the uptake of software solutions and this in turn has inhibited the development of ICT applications for the small business sector.

### **4. Selecting Technologies**

Governments in past years have been reluctant to specify technologies for which subsidies will be provided and SETEL sees no need to divert from this path. However it is apparent that Fibre technologies will not be cost-effective for many areas of Australia, generally those outside the footprint of population centres.

SETEL is concerned that one carrier proposal seems to be limited to providing Fibre-based services to approximately 60% of the population, thus leaving 'someone else' to find a solution for the remainder. There have been indications that this "60% solution" may proceed regardless of Federal Government support.

The National Broadband Network must be national but need not be a single solution or a single network. Network developments should address the demographics of users in all areas of Australia in order to provide a defined minimum set of services (a virtual broadband USO) with scalability options made available for additional services.

SETEL fears the loss of the concept of competitive supply contributing to the long-term interests of end users if one major market participant is permitted to exercise dominance over the network or substantial parts of it. SETEL has noted slowness in roll-out of new technologies in circumstances where little or no competition prevails. However the important element of cross-subsidisation has been an essential factor in the provision of access and services to certain sectors of the user community. Federal subsidies or contributions should be offered with caveats to ensure that recipients of such services can continue access at affordable rates.

## **5. Other SETEL Policies (Relevant to topic).**

### **Tier 3: Programs to Raise Public Awareness**

The following are separate from the infrastructure programs as they are carrier specific and affect current network arrangements. SETEL considers them to be important in terms of de-mystifying the availability of ADSL services in certain areas. Potential users need to be aware of the likelihood of failure to obtain an ADSL service because of non-provisioning of an exchange, the limitations of the cable run (distance from an exchange) or the existence of limiting devices such as pair gains/RIMS.

### **Registers of Service Coverage and Barriers to Service**

- 3.1 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.**
- 3.2 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.**
- 3.3 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.**

### **Expanded Accessibility of Currently-available Services**

#### **3.4 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.

### **Accuracy of Information**

#### **3.5 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 or not-readily-achievable by excessive distance (by cable run) from the exchange or the existence of 'in-place' technologies.

### **Tier 4: Regulatory Measures (Activities designed to facilitate competition).**

The debate about the efficacy of structural separation of Telstra continues (at a lesser level). Structural separation cannot be achieved in a short time. Proper analysis of the options and rationale, followed by implementation of any recommendations would take years to effect. A more immediate or shorter-term solution is necessary. Self-imposed structural separation (as appears to be happening at present) is reversible and thus non-permanent.

In order to give competitors and access seekers the opportunity to enter into the market in a manner consistent with the aims of regulatory intervention and Government policy a more transparent form of operational separation within the major network owner is essential.

#### **4.1 SETEL favours Equivalency-based Internal Operational Separation to create an effective 'arms length' split of the wholesale & retail activities of Telstra.**

## Components

- *Telstra supplies inputs to itself on the same basis as it supplies them to competitors (wholesale customers and access seekers).*
- *All infrastructure to be managed by Telstra Wholesale (as a true wholesaler of services) or a network services division.*

**Services should at least include those applicable to Residential and small business users.**

**4.2 SETEL considers that the basket of services covered by the operational separation process should encompass at least all those 'declared' by the ACCC with scope for additions under the normal declaration framework.**

For simplicity it might be preferable to include all services in the wholesale/retail split. Ideally, SETEL wants covered those services that provide primary benefits to small and home business users.

**Speedier Process for Declaring New Services.**

**4.3 SETEL believes that, in the interests of stimulation of competition, there could be a fast-tracking mechanism for new services for which declaration was sought.**

## Competitive Markets

**4.4 SETEL accepts that in contestable markets where satisfactory competition has evolved the internal separation model may not need to operate.**

**4.5 SETEL believes that, in addition to the internal structural separation requirements, the ACCC needs to be given extra powers to deal swiftly with anti-competitive behaviour.**

- *The ACCC to be given divestiture powers following investigation and finding of anti-competitive behaviour. (This would require additions to Part XIB and Part XIC telecommunications-specific powers of the Trade Practices Act to provide a remedy to the ACCC to seek Federal Court orders to require Telstra to divest itself of certain assets or businesses.)*
- *The ACCC to be given more power to influence/enforce price setting and pricing undertakings so that Regulator-set prices were applicable to the marketplace.*

SETEL notes that Bundling remains a concern to competitors and access seekers and that they require ACCC powers to prevent Telstra from using anti-competitive cross-subsidisation or margin shifting to undermine competition. The broad horizontal integration of Telstra into companion markets such as Pay-TV and Directories enables Telstra to offer a suite of services to customers and to provide discounts on those services offered by competitors.

**4.6 SETEL believes that it could be advantageous, from a competition viewpoint, to include an increased number of services to enable competitors to gain a foothold in the market and thus be able to provide services in a broader range and wider areas.**

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.

Competition policy favours long-term benefits to end-users. The additional powers for the ACCC would encompass measures to severely punish Telstra from acting contrary to the Trade Practices Act, such as forcing Telstra to divest itself of a business stream or business entity if found guilty of predatory, discriminatory or otherwise illegal conduct.

SETEL has waited for many years for a progressive approach to resolving the lack of availability of scaleable affordable broadband services to all Australians. We have noted the impact of network impediments (RIMS & Pair Gains), the incomparability of services, the complexity of terminology and the frustration from unrealized promises rendering many small, micro and home businesses very sceptical about developing ICT technologies.

This Panel of Experts has a real opportunity to make an impact and affect telecommunications developments for the next decade in such a way that users can become able to enjoy those developments without having to divert excessive time and effort into awareness of how to best implement systems and services.

A good set of solutions is required and SETEL is mindful of the danger of seeking to find a quick compromise solution rather than establishing the building blocks of a future dynamic telecommunications environment through prudent policies underpinned by Federal Government support.

Ewan Brown  
Executive Director  
SETEL

31 March 2008. (Email: [ewan.brown@setel.com.au](mailto:ewan.brown@setel.com.au)) Tel: 02 6251 7823