



28 March 2008

National Broadband Network Panel of Experts
Department of Broadband, Communications and the Digital Economy
GPO Box 2154
CANBERRA ACT 2601

Dear Panel,

Pre-RFP Submission on behalf of TransACT

I refer to the request by the Panel for submissions to assist in the development of the Request for Proposals documentation.

I attach for your information a brief submission by TransACT Capital Communications Pty Ltd (TransACT). As a member of the G9 consortium, TransACT fully supports the views expressed in the G9's collective submission to the Expert Panel. This submission, while consistent with the G9 submission, seeks to emphasise particular matters on the basis of TransACT's experience in constructing, maintaining and operating broadband networks.

Should you require any further information, please do not hesitate to contact me.

Yours sincerely,

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SUBMISSION TO THE EXPERT PANEL – CONSULTATION ON THE NATIONAL BROADBAND NETWORK REQUEST FOR PROPOSALS

Introduction

TransACT is pleased to contribute its views in regard to the development of a request for proposals (RFP) for the construction of a national broadband network. As a member of the G9 consortium, TransACT supports the views expressed in the G9's collective submission to the Expert Panel. This supplementary TransACT submission is consistent with the G9 submission and seeks to emphasise particular matters of interest and/or concern to TransACT.

There are a number of matters TransACT would draw to the attention of the Panel as it determines the structure of the national broadband network RFP process. TransACT's views are informed by its:

- experience in constructing, maintaining and operating a significant broadband network over the past eight years;
- recent acquisition of a significant regional broadband provider, namely Neighbourhood Cable Limited; and
- interaction with earlier government-funded communications programs.

Considerations relevant to the RFP process

TransACT notes the significance of the Federal Government's national broadband network initiative to the telecommunications industry generally and the considerable impact its outcomes will have on the business sector and consumers for some time to come. It is vital therefore that the RFP process facilitates a thriving and competitive industry providing quality, reasonably priced services for consumers.

TransACT would urge that the Panel consider the following elements in determining the national broadband network RFP process:

- timing of RFP process

The development of a quality proposal for the national broadband network is complex and necessarily involves an evaluation of what broadband networks are currently available, what further network needs to be constructed in various localities, and the most appropriate technologies to be deployed throughout these localities in order to achieve the Federal Government's national broadband network objectives.

In order to ensure that accurate and deliverable proposals can be submitted by all interested parties, sufficient time needs to be allocated to ensure that those developing proposals can do so in a comprehensive manner. It is in the interests of all parties (government, bidders and ultimately network customers) that any costing models submitted by interested parties be accurate and able to be delivered efficiently and effectively.

The development of realistic, quality proposals can only occur if essential timing and network information elements form part of the RFP process. These include:

- ensuring sufficient information in relation to existing networks is available to bidders responding to the RFP process to enable a solid basis for the network planning and cost modelling of proposals; and
- allowing a reasonable and realistic time frame for the development of comprehensive proposals;

- information to be made clear within or prior to the issue of the RFP

There are a number of matters that should be clarified prior to the release of, or within the RFP documentation in order to enable bidders to formulate their proposals. Some of these items are noted below.

It is TransACT's view that the manner in which funding will be made available for the national broadband network be released prior to the call for proposals. It is important that the details of the funding regime to be applied under the RFP be clearly established and understood by potential bidders as the nature of the distribution of the funding will inform the way in which bids are constructed.

Similarly, it is important that the RFP specify clear assessment criteria against which proposals will be evaluated. Again, this will assist potential bidders to formulate their bids. The requirements in relation to the timing of the national broadband network deployment is an important factor that should be clearly specified within the RFP. This will enable bidders to accurately cost service provision, inform proposed technology solutions and ensure the network solutions proposed meet Federal government objectives.

TransACT notes that a number of submissions to the Panel have indicated a requirement for pre-RFP documentation and/or a two stage bid process in order to ensure that important information can be relayed to potential bidders as they formulate their proposals and on the basis that such a process would assist the overall efficiency of the RFP process. TransACT supports this suggested approach;

- ability to lodge modular bids

TransACT would urge the Panel to ensure that the RFP documentation allows potential bidders the option to lodge modular bids (as opposed to Australia-wide solutions). TransACT does so on the basis that such an option may facilitate the deployment of tailored network solutions that build on existing regional infrastructure, rather than impose a more generalised approach that will result in duplication of network in many areas. While TransACT recognises it is not feasible or desirable that a national network be provided by a plethora of small providers (with differing technologies and questionable sustainability), there may be some merit in considering the deployment of the network on a regional as well as a national basis. TransACT recognises that resultant regional networks would be required to strictly comply with national objectives, including sustainability and open access principles;

- value add considerations

Given the significance of the national broadband network, TransACT is of the view that the RFP should contemplate and promote the deployment of sustainable network solutions and encourage additional 'value add' elements. This is relevant to the structure of the payments to be made available to the successful bidder under the terms of the RFP (noted above). It would be conducive to better outcomes generally if elements such as sustainability and value add provisions were recognised in the manner in which funding was allocated.

Regulatory and Policy Considerations relevant to the Deployment of the National Broadband Network

TransACT notes the Government's intention to separately invite submissions from industry in regard to the appropriate regulatory framework for the national broadband network. While recognising that the resolution of regulatory and policy matters is not necessarily within the scope of the Panel, TransACT regards certain regulatory matters as a vital component of the RFP process.

Important regulatory and policy matters to be addressed as part of national broadband network deployment include:

- over build

Previous experience within the telecommunications industry within Australia has clearly demonstrated the inefficiency associated with the overbuild of infrastructure assets. To have competing networks is a wasteful duplication of infrastructure and is not conducive to competition. There are a number of mechanisms which can appropriately regulate the construction of duplicate infrastructure. For example, within the Australian Capital Territory (ACT), legislation was introduced some years ago effectively limiting the ability of providers to duplicate telecommunications infrastructure within the Territory.

- structural separation between ownership and operation of the network

Due consideration must be given to the ongoing regulation of the national broadband network if the significant competitive and social benefits to be derived from such a deployment are to be fully realised.

The G9 group has worked to address appropriate separation mechanism through the formation of the special purpose entity, FANOC Pty Ltd, and the lodgement of a Special Access Undertaking (SAU) with the Australian Competition and Consumer Commission (ACCC). The SAU clearly indicates the proposed terms under which wholesale access to the national broadband network would be made available. The G9 has indicated that it will shortly be lodging a new SAU that addresses a number of recommendations made by the ACCC and reflects the continued work of the group in determining a competitive wholesale access regime.

TransACT regards it as appropriate that bidders indicate in their proposals the manner in which they intend to address structural separation issues and provide access on a fair and equitable manner to all competitors seeking to utilise the network.