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Environment and Communications Legislation Committee
The Australian Senate

By email: ec.sen@aph.gov.au

The *Telecommunications Legislation Amendment (Competition and Consumer) Bill 2019* and the *Telecommunications (Regional Broadband Scheme) Charge Bill 2019*

1. TPG Telecom Limited (**TPG**) is the owner of carriers that supply consumers with superfast broadband services. It is therefore affected by the *Telecommunications Legislation Amendment (Competition and Consumer) Bill 2019* (**TLACC Bill**) and the *Telecommunications (Regional Broadband Scheme) Charge Bill 2019* (**TRBSC Bill**) (together, **the Bills**).

2. TPG made a lengthy submission to the 2017 version of the Bills, that submission is attached. The commentary in that submission remains relevant to the 2019 version of the Bills and we endorse all of the comments in that submission and request that the Committee take them into account.

3. In addition to the original submission, TPG makes the following supplemental comments.

4. During the enquiry conducted by the Vertigan Panel in February 2014, TPG made the following submission:

   > *Wireless technology is progressing rapidly and TPG considers that these developments have not properly been factored into the decisions being made relating to NBNCo. Today, in Australia the average download speed over 4G is 25Mbps (Comms Day 12 March 2014 reporting OpenSignal's state of LTE report). The future will bring other technologies that will make huge bandwidth available wirelessly. Speeds will only increase as technology improves and more spectrum is made available and they will be provided cheaply, most likely significantly more cheaply than will be available to end users using NBNCo fixed line (noting that the price of NBNCo fixed line services will be inflated by CVC Costs and the other inefficient costs that TPG believes are the inevitable consequence of the NBNCo's structure as a government funded quasi-monopoly that has social objectives rather than commercial objectives).*

5. The context for that submission was that TPG considered that infrastructure-based competition to the NBN ought not to be hindered by a tax that simply targeted fixed line carriers such as TPG. TPG's submission was that competition to the NBN was most likely to come from Telstra and Optus mobile services, including 5G, and that there was no reasonable basis to levy a tax on TPG's fixed line superfast broadband services but not levy a tax on the competition that would continue to grow from 4G and 5G wireless services, whether fixed or mobile.

6. Those views were expressed in 2014. The generally accepted theory was that wireless was never going to be a real substitute for the NBN.

7. If we now look at 2020, the truth of TPG's submission to the Vertigan Panel is being proven.

   a. Telstra is aggressively rolling out a 5G network. It is promoting that it has more capacity, faster speeds and lower latency. It is offering plans up to 150GB of included data.

   b. For $70 per month, Optus is offering “Optus 5G home broadband” with a “50Mbps satisfaction guarantee” and Unlimited Data, with a key feature being “you don’t need a fixed line to connect”.
   c. Exetel is using the Optus mobile network to offer “Home Wireless Broadband” including 250GB of included data per month for $69 per month.

8. It is plain that these products compete with the NBN. The explanatory memorandum to the TRBSC Bill relies on a 2015 ACCC report to state that mobile is not a threat to the NBN. It is certainly out of date. It is also certain that the wireless attack on fixed line products will accelerate when the ACMA auctions off the mmWave spectrum in the coming months.

9. Now TPG does not submit that the conclusion ought to be that such wireless products should also be taxed. TPG’s submission is that it makes absolutely no sense to tax the small number of fixed line competitors to the NBN at the same time as ignoring the wireless competitors.

10. The Vertigan report noted and accepted the importance of infrastructure-based competition. It also recorded that the panel considered that:

    “*any subsidies required to meet broadband access and pricing goals should be transparent, sourced in ways that minimise inefficient burdens on taxpayers, delivered as efficiently as possible and sustainable in a competitive environment.*

    ….

    “*By far the best option for funding any ongoing subsidy would be through consolidated revenue. Among other advantages, that would allow Parliament and the public to assess in an ongoing way the benefits of using taxpayer funds for this purpose rather than others. However, should that option not be adopted, the panel recommends that, if an ongoing subsidy is required and its minimum amount can be reliably determined, a single, annual, broad-based industry levy, covering both voice and broadband services, be imposed to fund that subsidy.*”

11. TPG wholly endorses those sentiments. TPG considers that the TRBSC Bill does not meet the criteria at all.

12. Since 2014, TPG has repeatedly stated that the RBS Levy, which the Minister acknowledges in his second reading speech is a tax, is poor policy.

13. TPG submits that the generally accepted principles for a good tax is that it is:

    a. Fair, in that it does not favour one citizen over another;
    b. Efficient in terms of administration and collection;
    c. Non-distortionary; and
    d. Created for a good social purpose.

14. The RBS Levy fails on all measures.
    a. It is not fair in that it favours Telstra, Optus and other carriers who would compete with the NBN using wireless technology.
    b. It is not efficient in terms of administration in that the amount of revenue that the Government expects to collect is miniscule compared to the cost and red tape of collecting it.
    c. It is distortionary in that it will improve the economics of wireless providers and thereby drive consumers to take those products.
    d. It seems to TPG that, given the very targeted nature of the RBS tax and its limited benefit, the outcome of the tax is not for a good social purpose but rather for the purpose of discouraging TPG (and similar carriers) from offering a competing product to NBN.

15. TPG submits that, if the objective is to create a “good tax” that effectively funds the non-economic areas of the NBN, this committee needs to find a way to pass a law that more closely aligns with the Vertigan recommendations. A USO type of levy is that way.

16. In his second reading speech, the Minister indicated that “Customers on NBN Co’s network will not experience the price rises as the charge is already embedded in NBN Co’s pricing”. It is interesting to note that under NBN’s November 2019 pricing review announcements, a new

promotion called “MDU Momentum” has been introduced which pays an incentive of between $50 and $195 to RSPs for making NBN sales in multi-dwelling units (MDUs). If one premises supplied using the NBN will pay less than another premises (noting that MDUs are much more common in metro than regional areas), how can it be said that NBN network customers will be subsidising the non-economic areas of the NBN?

17. We note that the Opposition Minister for Communications, the Honourable Michelle Rowland has expressed concerns about the RBS Tax.

18. TPG is prepared to wear the red-tape burdens that are being created by the TLACC Bill but TPG strongly opposes the TRBSC Bill.