



## Submission to House Standing Committee on Economics

### Inquiry into Impediments to Business Investment

May 2018

#### Introduction and Summary

Commpete welcomes the opportunity to submit to the inquiry. Commpete represents the interests of the challenger operators in communications networks.

Commpete submits that effectively and sustainably competitive communications markets are important contributors to increasing investment across the economy. The importance of increased competition has, however, slipped to become, at best, a second order issues in discussion about communications market policy in recent years.

Restoring the focus on competition is necessary to maximise the potential for national investment across all industries.

#### The Rationale for NBN and the Promise of Growth and Investment

The Government intervened in the communications market in 2009 by announcing it would build the NBN because it was clear that;

- Access to reliable, next generation broadband was essential to the future prosperity of the nation. Businesses across almost all industries required broadband to be able to transition to a digital economy, and countries that could not offer ubiquitous access to genuine broadband would be see underinvestment in all sectors. That is, the government recognised broadband is now an enabling infrastructure that will drive growth and investment in the same way the electricity grid is an enabling infrastructure.
- Australia had not enjoyed the level of competitiveness in retail communications markets as enjoyed by other developed nations, and this resulted in stubbornly high prices and the slower deployment of new technologies relative to other countries. This was because the access network was owned and operated by the largest retailer, and access to it by alternative providers had not been available on equal terms. This meant the incumbent was able to curtail strong competition and defend high margins.

The history of telecommunications in Australia demonstrates the importance of competition in driving disruptive technologies and pricing and service models into retail markets. While competition was constrained, access rules meant competitors were able to compete with som effect in more

densely populated areas and it was here that they fundamentally challenged incumbent price and service models with a range of innovations. These include:

- The first 3G mobile network built in Australia
- National local call for business users
- ADSL2+ broadband
- “Unlimited” data plans
- “Bucket” pricing for mobile services
- Naked DSL services

NBN was intended to facilitate a step-up in competitive opportunities across the whole of Australia. It was to do this by building a new, high capacity, national access network and making this network available for use by all retailers on the same price, terms and conditions.

The very high capital hurdle of building an alternative access network was a barrier to entry for challenger retailers. By removing this barrier, market entry would be facilitated, and challenger entrants would drive choice, lower prices, and innovative services, more responsive to the needs of other businesses and consumers.

#### The Policy Implementation: The Outcome Has Fallen Short

As the NBN rollout began, analysts expected the impact of the NBN in stimulating competition would result in an increase in the combined market share of those broadband retailers outside the Top Four from around 15 percent to about 30 percent. The market share of Telstra, the largest retailer, was expected to fall from around 50 percent to into the 30s.<sup>i</sup>

By these measures, the NBN policy has yet to make an impact. The market share of Telstra, as reported by the ACCC in its recent Communications Market Study has been unchanged at around 50 percent for the past four years.

The market share among the challengers outside the Top Four is around 12 percent, both in fixed broadband and mobile market (as measured by market share of Mobile Virtual Network Operators).

Commpete believes it is crucial to the future of business investment across the economy that the enabling communications service markets are state of the art and able to respond and support new services delivered “over the top”.

To achieve sustainably competitive markets, the focus of competition policy should not be solely on restraining the further consolidation of the largest providers, although this remains important.

An essential but often overlooked element is to understand the barriers to entry and investment by challengers. Commpete believes policy makers and regulators, as well as the NBN, should consider all decisions from this perspective.

For example, the NBN requires Retail Service Providers who want to connect with it to sign a Wholesale Broadband Agreement to define the terms and conditions of supply. This document is over 700 pages in length. While Telstra and other very large incumbent retailers have the legal resources to fully understand the obligations and rights created in this document, it is clearly beyond

the means of a leaner or start-up business to do so. If NBN were to define its purpose as facilitating new entry, it could consider a different, plain English approach and seek to reduce this contract to tens of pages, not hundreds.

Similarly, the changed prices introduced recently by NBN to overcome network congestion have had the effect of limiting innovation. NBN chose to “bundle” its access charge for 50mbps services with its data usage charge, which has had the effect of limiting the ability of challengers to differentiate from incumbents by focusing on making 100mbps services attractive to users.

In the New Zealand and Singapore markets, challengers have used the NBNs in those markets to pioneer 100mbps mainstream consumer services, which have now become the most popular offering. In both markets, consumer demand is now pushing to 1 gigabit speed services.

Likewise, policy makers and regulators should consider the impact on competition of measures they propose as “point solutions” to areas of market failure. For example, levies such as the Universal Service Levy, and measures that impose heavy reporting obligations, disproportionately impose costs on challengers that are usually operating on negative or tighter margins as they build market share.

#### Contact

Commpete would be pleased to expand on the issues raised in this submission, either in a further submission or at a public hearing if the committee considers this would be helpful.

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<sup>i</sup> JP Morgan Report, 12 December 2012