



## **Submission to the Senate Select Committee on the NBN**

**November 2013**

The Competitive Carriers' Coalition has represented the interests of non-dominant telecommunications carriers in Australia since 2001. The CCC welcomes the opportunity to contribute to the Select committee inquiry.

The CCC has limited insight into the strategic review of the NBN at this stage. The CCC and several of its members have had preliminary, introductory meetings with NBN Co executives involved in the review. It is our understanding that the review itself is at a preliminary stage and the input and views of external parties is expected to be sought when the review is further advanced.

However, the CCC published in 2012 and earlier this year its views on the principles that should inform communications policy in order to ensure an effectively competitive market was created, and how these principles should be translated into a policy framework if a fibre to the node technology was used rather than the fibre to the home technology originally being deployed.

Those principles will form the background against which the CCC responded to any proposed changes to NBN Co's network and business plans as a result of the company's strategic review, once that information becomes available.

For the benefit and consideration of the committee, those principles are below.

The CCC would be pleased to provide further assistance to the committee in its future deliberations where appropriate.

Please contact:

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## **CCC Statement of Regulatory Principles**

**November 2012**

The CCC believes that any policy to promote the investment in and access to next generation fixed and mobile broadband networks, as well as the policy and regulatory environment in which public or private investment is made, must be derived from some fundamental principles.

Those principles are:

1/ All policy must lead to the development of an industry structure that is conducive to maximising competition. Competition is the best driver of consumer and national welfare. Policy must give primacy to the promotion of effective competitive markets for the provision of national communications services.

2/ Structural separation of “essential facilities” (that is, facilities that exhibit natural monopoly characteristics) is a necessary condition for the promotion of competition in existing and emerging competitive markets.

3/ Even with structural separation for essential facilities, there should be robust price regulation of access services to those facilities. Regulated prices should be based on established and consistent principles to promote the long-term interest of end-users, prevent monopoly rents and network “gold plating”.

4/ Wholesale communications markets are national by nature, and thus regulation and policy must be national.

5/ Policy should avoid locking-in legacy technology that inhibits competition or which leads to the future reintegration of retail businesses with monopoly network elements.

6/ Policy to upgrade existing fixed line networks must be based on structural separation of the monopoly element and specify a pathway to the FTTH that enhances future competitive opportunities. Any upgrade pathway must reflect the principle that all developments must lead to greater competition over time.

7/ Regulatory pricing and access principles should be maintained and enhanced, and arrangements where competition is “traded off” to encourage investment in the short term – through, for example, regulatory holidays – avoided.

8/ In locations where a return is not sufficient to support commercial infrastructure investment, policies to encourage investment should promote competition and broadband access. Policy must avoid subsidies that entrench the dominance of the major incumbent and improve its market position. For example, Government funding should not subsidise the expansion of Telstra mobile network coverage without establishing open access arrangements and equivalence principles consistent with those being implemented in fixed line network regulation.

### **Conditions precedent for NBN policy to meet CCC Statement of Principles**

**18 March 2013**

#### **Key principles**

- The structural separation of Telstra;
- The creation of a wholesale-only NBN;
- Ensuring near universal coverage for both the city and regional Australia;
- Uniform national prices; and
- Non-discrimination between telcos.

#### **Competition questions based on different technologies**

##### **FTTN**

- Copper ownership must transfer to NBN Co.
- NBN Co must operate both the fibre and copper components of the network.
- Copper must be made fit for purpose before hand over, but responsibility for maintenance should then be with NBN Co.
- Ownership transfer must be national and immediate. This is the only practical way to manage the transition from exchanges to FTTN and to prevent Telstra from building ahead of NBN Co.
- The upgrade path must not result in retailers owning or having control over FTTH. FTTH upgrades must be built by NBN Co and any cost recovery obligation must not be a “lock in” mechanism to a particular retailer.
- Telstra must use the new FTTN network via NBN Co.
- It is not acceptable for NBN Co to own the copper, yet at the same time contract Telstra to manage that infrastructure. Structural separation is not achieved when contractual arrangements merely replace what were ownership rights.
- Detail of any explicit cross subsidy from urban rollout to regional must be forthcoming. Cross subsidy must be competitively neutral. Direct subsidy should be funded explicitly from the budget, not from levies on retailers, which are necessarily borne disproportionately by market entrants. The USO is not an appropriate mechanism to deliver equality of infrastructure.
- Existing Points of Interconnect are retained as the location where all access seekers connect to the NBN.

## HFC

- Structural separation ownership of Telstra HFC must be with NBN Co.
- Non discrimination must be retained. All carriers must buy via NBN Co.

The way in which NBN rolls out in the current Telstra HFC footprint needs to be DETAILED. Currently, there is no effective infrastructure - based competition between copper and cable networks, and Telstra remains vertically integrated. Like the NBN Co rollout, a timeline for HFC footprint rollout and detail of the arrangements for NBN Co to take over the running of all copper and HFC in these areas must be published.