

Senate Standing Committee on Environment, Communications and the Arts
Answers to Senate Estimates Questions on Notice
Additional Estimates Hearings February 2009
Broadband, Communications and the Digital Economy Portfolio
Department of Broadband, Communications and the Digital Economy

Question No: 5

Hansard Ref: ECA102

Topic: National Broadband Network –Outcome of tender process

Senator Minchin asked:

I am not sure whether you said it was your ambition to ‘sign a contract’ or ‘indicate a preferred tenderer’ but I think you said it was your ambition to indicate the outcome of the process in March. Is that still your ambition?

Are you able to provide further specificity to that ambition? Is it your ambition that you would announce a preferred tenderer?

Answer:

On 7 April 2009, the Prime Minister, the Treasurer, the Minister for Finance and Deregulation and the Minister for Broadband, Communications and the Digital Economy announced the establishment of a new company to build and operate a new super fast National Broadband Network (NBN).

This announcement follows the Government’s decision to terminate the NBN Request for Proposals process on the basis of advice from the independent Panel of Experts that none of the national proposals offered value for money. The Panel noted the rapid deterioration of the global economy had a significant impact on the process.

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Question No: 9

Hansard Ref: ECA110

Topic: NBN – Access Options

Senator Nash asked:

Unless you are going to allow a fibre-to-the-premises arrangement when whoever is the successful tenderer will need access from that node to the home. That is what you said: it is a fibre-to-the-node arrangement. I am just trying to ascertain what the options are for the successful tenderer to access that particular piece of infrastructure which they are going to need under your NBN.

Answer:

As the National Broadband Network (NBN) Request for Proposal (RFP) process was terminated on 7 April 2009, the need for the successful tenderer to access any particular piece of infrastructure to construct a fibre-to-the-node network no longer arises.

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Question No: 10

Hansard Ref: ECA110

Topic: NBN – Subloop Unbundling

Senator Nash asked:

Has subloop unbundling been done anywhere else in the world?

Telstra indicated late last year that it had never been attempted anywhere else in the world. If you have different advice from Telstra it would be very useful if you could provide it to the committee.

Answer:

Issues related to subloop unbundling would not appear to be relevant to the Government's enhanced national broadband network initiative announced on 7 April 2009.

However, in response to the general question, there are several countries in which the incumbent telecommunications operator is required by regulation to make unbundled cooper subloops available to its competitors. Examples of countries and the respective telecommunications operators where subloops are offered include:

- United Kingdom (Open Reach);
- United States of America (Qwest);
- Germany (Deutsche Telekom); and
- Netherlands (KPN).

The Department is not aware of the number of subloops that have been taken up by access seekers in the abovementioned countries.

Currently, the New Zealand Commerce Commission is conducting a regulatory process to determine standard terms of access to Telecom New Zealand's subloops. The Commerce Commission has indicated that its final standard terms determination for subloop services will be released in early 2009.

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Question No: 12

Hansard Ref: ECA112

Topic: National Broadband Network – Merging existing bids

Senator Birmingham asked:

Is it technically possible under the RFP for bidders to merge their proposal or for new parties to be brought in to an existing bid?

What negotiation is possible with proponents at present?

Answer:

On 7 April 2009, the Prime Minister, the Treasurer, the Minister for Finance and Deregulation and the Minister for Broadband, Communications and the Digital Economy announced the establishment of a new company to build and operate a new super fast National Broadband Network (NBN).

This announcement follows the Government's decision to terminate the NBN Request for Proposals process on the basis of advice from the independent Panel of Experts that none of the national proposals offered value for money. The Panel noted the rapid deterioration of the global economy had a significant impact on the process.

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Question No: 48

Hansard Ref: Written

Topic: NBN Panel of Experts Costs

Senator Birmingham asked:

What is the total cost for the NBN Panel of Experts been to date? How is this apportioned between payments to panel members and other expenses such as travel?

Answer:

The total expense incurred by the Department in relation to the NBN Panel of Experts is \$702,790.54. Of the total expense, panel fees were \$613,556.21 and travel and associated expenses were \$89,946.69.

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Question No: 49

Hansard Ref: Written

Topic: Advice and external consultant costs

Senator Birmingham asked:

What is the total cost for advice and external consultants been in relation to NBN? Please break down per activity and consultant engaged.

Answer:

Expenses for advice and external consultants in relation to the NBN RFP process, as at 31 March 2009¹ totals \$10,751,662.15 and is comprised as follows:

- **KPMG** for investment, financial and commercial advice: \$2,846,262.41 expensed to 31 March 2009:
 - \$402,807.17 for services rendered in 2007–08
 - \$2,443,455.24 for services rendered up to 31 March 2009
- **Gibson Quai-AAS** for technical advice: \$1,350,359.10 expensed to 31 March 2009:
 - \$155,472.40 for services rendered in 2007–08
 - \$1,194,886.70 for services rendered up to 31 March 2009
- **Frontier Economics** for economic regulatory advice: \$1,312,389.28 expensed to 31 March 2009:
 - \$143,323.33 for services rendered in 2007–08
 - \$1,169,065.95 for services rendered up to 31 March 2009
- **Corrs Chambers Westgarth** for legal advice: \$3,378,383 expensed to 31 March 2009:
 - \$840,445 for services rendered in 2007–08
 - \$2,537,938.60 for services rendered up to 28 February 2009
- **Australian Government Solicitor** for legal and probity advice: \$1,850,632 expensed to 31 March 2009:
 - \$715,360 for services rendered in 2007–08
 - \$1,135,272.27 for services rendered up to 28 February 2009
- **Adelaide Research & Innovation Pty Ltd** to review the Department's Australian Premises Projections. Total expensed \$13,636.36.

¹ Figures exclude GST

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Question No: 50

Hansard Ref: Written

Topic: NBN – Assessing premises coverage

Senator Birmingham asked:

I refer to the response to Question on Answer 9 from the October 2008 Supplementary Estimates hearings. What is “the Commonwealth’s approach to assessing the premises coverage of National Broadband Network proposals”? How have proponents been informed of this approach: When were they informed of this approach? How does this approach differ from the assessment of underserved premises covered under the OPEL contract?

Answer:

As indicated at the 2008-09 Supplementary Budget Estimates hearing on 20 October 2008, Schedule 2 of the Request for Proposals (RFP) asked proponents to provide a range of detailed information with respect to coverage. Proponents were asked not only to indicate the extent of their coverage but also the methodology by which they arrived at that number. The Department’s response to Question on Notice number 10 for the Supplementary Estimates Hearings in October 2008 indicated that, generally speaking, the extent of network coverage is established by comparing the reach of a network to geospatial data on the location of premises.

As noted above, the Commonwealth’s approach to assessing coverage was set out in the RFP. The approach was confirmed with proponents during bilateral meetings in October 2008. The Commonwealth reiterated its approach, as set out in the RFP, in writing on 11 November 2008.

The approach to assessing the premises coverage of National Broadband Network proposals differs from the assessment of premises coverage under the OPEL process in that the National Broadband Network approach relates to the coverage of total premises, whereas assessment under the OPEL contract primarily related to the coverage of underserved premises only.

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Question No: 69

Hansard Ref: Written

Topic: NBN Legal/Consultancy costs

Senator Minchin asked:

It was announced in the Additional Estimates that \$10 million dollars was allocated "to meet the projected additional costs associated with the NBN project"

- a) Please outline what these additional costs are?
- b) Are the additional costs solely for specialist advisers, including lawyers?
- c) Have the delays through the tender process resulted in higher than anticipated consulting and legal costs?
- d) Please provide the most up to date break down of costs associated with Legal and other specialist advice in relation to the NBN process.
- e) Please provide costings in relation to the five sets of legal advice obtained by the expert panel relating to the eligibility of Telstra's proposal for consideration under the RFP process.

Answer:

- a) The additional costs relate to consultancy fees, committee expenses, employee expenses and other operating costs.
- b) No. See response to a) above.
- c) Yes. What was always clearly stated as an indicative timeline was required to change to fit with the provision of network information to proponents. Changes to the timeline have required a corresponding adjustment in resources.
- d) Refer to answer Question 49.

- e) Legal advice by the Department's internal legal advisers was provided from existing resources at no additional cost to the Commonwealth.

Corrs Chambers Westgarth and the Australian Government Solicitor provided services relating to this advice as part of their engagements to provide legal and probity services in connection with the National Broadband Network project. In a number of cases, legal services on this issue were provided by lawyers in these firms who at the time were also engaged in other activities relating to the assessment of NBN proposals. Based on the information provided in invoices supplied by these providers, the costs billed to the Commonwealth relating to the eligibility of Telstra's proposal for consideration are estimated as follows:

- Corrs Chambers Westgarth: \$75,749.20 (not including GST)
(this includes time billed for provision of legal advice to the Department, preparing briefs to counsel to advise on these issues and attending conferences with counsel and panel meetings)
- Australian Government Solicitor: \$28,430.50 (not including GST)
(this includes time billed for provision of legal advice to the Department and attending panel meetings)

The following bills for counsel's fees were billed to the Department as disbursements:

- Mr John Sackar QC: \$7,681.82 (not including GST)
- Ms H Younan (junior counsel): \$4,385.45 (not including GST)
- The Solicitor-General does not charge fees.
- Mr G Kennett (junior counsel assisting the Solicitor-General) has submitted an invoice for \$2044.00 (including GST).

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Question No: 70

Hansard Ref: Written

Topic: NBN Expert Panel

Senator Minchin asked:

1. How many times has the panel meet since its establishment?
2. Were all members of the panel present at all meetings? If not please indicate which members attended which meetings?
3. Where did these meetings take place and what costs were incurred?
4. Please provided details of any travel and expenses incurred by members of the panel in relation to their duties?
5. What is the fee structure which applies to members of the NBN expert panel?
6. Please provide details of expenditure incurred by the Departmental in supporting the panel.
7. What further role does the expert panel or any of its members have to play in the NBN project considering its report and recommendations have been received by the Minister?
8. Will the advice of the expert panel including its report submitted to the government be made public on the day after the Governments decision on a preferred tenderer?

Answer:

1. The NBN Expert Panel met on 42 occasions, comprising 12 face-to-face meetings, 24 Teleconferences, 4 site visits / technical demonstrations, and two days of Proponent presentations.
2. No. Please refer to the table below.

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NBN Panel of Experts Meetings (34)								
Date	Meeting Format	Patricia Scott or Representative	Tony Shaw	Ken Henry or Representative	John Wylie	Tony Mitchell	Rod Tucker	Reg Coutts
31 March 08	Face-to-Face	✓	✓	✓ *	✓		✓	✓
9 May 08	Teleconference	✓	✓		✓	✓	✓	✓
15 May 08	Teleconference	✓	✓			✓	✓	✓
27 / 28 May 08	Face-to-Face	✓	✓	✓	✓	✓	✓	✓
6 June 08	Teleconference	✓	✓			✓	✓	✓
16 June 08	Teleconference	✓	✓	✓	✓	✓	✓	✓
24 June 08	Face-to-Face	✓	✓	✓	✓ *	✓	✓	✓
4 July 08	Teleconference	✓	✓	✓		✓	✓	✓
11 July 08	Teleconference	✓	✓	✓		✓	✓	✓
18 July 08	Teleconference	✓	✓	✓		✓	✓	✓
29 - 30 July 08	Face-to-Face	✓	✓		✓	✓	✓	✓
8 August 08	Teleconference	✓	✓	✓		✓	✓	✓
15 August 08	Teleconference	✓	✓			✓		
26 August 08	Face-to-Face	✓	✓	✓	✓ *	✓	✓	✓
5 September 08	Teleconference	✓	✓	✓			✓	✓
12 September 08	Teleconference	✓	✓			✓	✓	✓
19 September 08	Teleconference	✓	✓		✓	✓	✓	✓
25 September 08	Teleconference	✓	✓			✓	✓	✓
26 September 08	Teleconference	✓	✓			✓	✓	✓
1 October 08	Teleconference	✓	✓		✓	✓	✓	✓
3 October 08	Face-to-Face	✓	✓	✓	✓ *	✓	✓	✓
10 October 08	Teleconference	✓	✓	✓			✓	
24 October 08	Teleconference	✓	✓	✓			✓	
28 October 08	Face-to-Face	✓	✓	✓	✓	✓	✓	✓
11 November 08	Teleconference	✓	✓	✓		✓	✓	✓
17 November 08	Teleconference	✓	✓			✓	✓	✓
24 November 08	Teleconference	✓	✓		✓	✓	✓	✓
1 December 08	Teleconference	✓	✓	✓	✓		✓	✓
5 December 08	Teleconference	✓	✓	✓	✓	✓	✓	✓
12 December 08	Face to face	✓	✓	✓	✓	✓	✓	✓
13 December 08	Face to face	✓	✓	✓	✓ *	✓	✓	✓

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NBN Panel of Experts Meetings (34)								
Date	Meeting Format	Patricia Scott or Representative	Tony Shaw	Ken Henry or Representative	John Wylie	Tony Mitchell	Rod Tucker	Reg Coutts
13 December 08	Proponent Presentations	✓	✓	✓	✓	✓	✓	✓
14 December 08	Technical Demonstration	✓	✓			✓	✓	✓
15 December 08	Proponent Presentations	✓	✓	✓	✓	✓	✓	✓
19 December 08	Face-to-Face	✓	✓	✓	✓ *	✓	✓	✓
19 December 08	Site Visit	✓	✓	✓		✓	✓	✓
6 January 09	Teleconference	✓	✓	✓	✓	✓	✓	✓
9 January 09	Face-to-Face	✓	✓	✓	✓	✓	✓	✓
9 January 09	Site Visit	✓	✓			✓	✓	✓
12 January 09	Site Visit	✓				✓	✓	✓
16 January 09	Teleconference	✓	✓	✓	✓	✓	✓	✓
20 January 09	Face-to-Face	✓	✓	✓	✓	✓	✓	✓

* Expert Panel member participated via teleconference

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3. Face-to-face Panel meetings were held in:

- Canberra - 9 meetings
- Melbourne - 2 meetings
- Sydney - 1 meeting

Optional site visits/technology demonstrations for the Panel of Experts occurred in:

- Canberra - 14 December 2008 (Acacia)
- Sydney - 19 December 2008 (ONI)
- Canberra - 9 January 2009 (TransACT)
- Tasmania - 12 January 2009 (Tasmania)

Proponent presentations to the Panel of Experts were held in Canberra on the following days:

- 13 December 2008
- 15 December 2008

Meeting expenses totalled \$12,704.13 (GST Inclusive)

4. Refer to Senate Estimates Question No. 48.
5. Remuneration to non-Commonwealth members of the NBN Panel of Experts was \$375 per hour, capped at a maximum of eight chargeable hours per day.
6. The NBN Taskforce employee expenses for the period of March 2008 to January 2009 (the duration for which the Panel was engaged through to the submission of its Evaluation Report to the Minister for Broadband, Communications and Digital Economy) totalled \$3,363,848.65.
7. The Panel's role was set out in its Terms of Reference. The Panel of Experts, as constituted for the evaluation of responses to the RFP, has no role in the current NBN process. Dr Henry and Ms Scott continue to have a role in their capacity as Departmental Secretaries.
8. An extract from the Panel of Experts Report, which does not contain confidential information, was made available on the Department of Broadband, Communications and the Digital Economy website on 7 April 2009.

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Department of Broadband, Communications and the Digital Economy

Question No: 71

Hansard Ref: Written

Topic: National Broadband Network – Economic modelling

Senator Minchin asked:

As a result of the current economic conditions is the Government now considering conducting detailed cost benefit analysis in relation to the planned spending of \$4.7 billion of taxpayer's money on the NBN project?

Also is the government now considering detailed economic modelling of the NBN project?

Answer:

On 7 April 2009, the Prime Minister, the Treasurer, the Minister for Finance and Deregulation and the Minister for Broadband, Communications and the Digital Economy announced the establishment of a new company to build and operate a new super fast National Broadband Network (NBN).

This announcement follows the Government's decision to terminate the NBN Request for Proposals process on the basis of advice from the independent Panel of Experts that none of the national proposals offered value for money. The Panel noted the rapid deterioration of the global economy had a significant impact on the process.

The Government's announcement was informed by expert advice from specialist technical advisers.

The Government's objective for the network is to connect 90 per cent of all Australian homes and workplaces with fibre to the premises, and remaining coverage to be delivered with next generation wireless and satellite technologies, within the \$43 billion investment. Initial advice to the Government is that this objective is achievable, but this estimate will be subject to an implementation study.

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Department of Broadband, Communications and the Digital Economy

Question No: 72

Hansard Ref: Written

Topic: NBN – Local Council Approval

Senator Minchin asked:

- 1) In relation to proposed NBN roll-out, including the placement of nodes, exchange upgrades, excavation and the like, will local Government approvals be required on a council-by-council basis?
- 2) Has the Department consulted with Local government, councils and communities in relation to the possible impact the NBN project will have on them?
- 3) If consultations have taken place: please provide details of this consultation process.
- 4) Under the Government's NBN objectives please provide an estimate as to the number of nodes required under the NBN?
- 5) Is it anticipated that more or less than 50,000 nodes would be required?
- 6) Is it possible to site the nodes underground to reduce amenity impacts?

Answer:

On 7 April 2009 the Government announced its enhanced National Broadband Network initiative involving the roll-out of fibre-to-the-premises (FTTP) to 90% of premises and next generation wireless and satellite to the remaining 10% of premises. The following responses take into account the Government's newly announced initiative.

- 1) Schedule 3 to the *Telecommunications Act 1997* currently confers certain powers upon carriers in relation to land entry, installation and maintenance of certain facilities and limited immunities from certain State and Territory laws when carrying out these activities. Specifically, carriers do not need local government approval on a council-by-council basis if facilities to be installed are 'Low-Impact Facilities' for the purposes of the *Telecommunications (Low-Impact Facilities) Determination 1997* (the Determination). The current Determination specifies seven types of facilities, which include: underground housings (such as pits), above ground housings (such as pillars) and underground cable facilities (such as underground conduits or cables) of a certain size.

To facilitate the roll-out of the enhanced FTTP-based National Broadband Network the Government has indicated that it will seek to:

- allow optical fibre to be rolled out overhead on existing poles;
- allow telecommunications carriers access to poles, ducts and pipes of other utilities, where technically feasible, for installing fibre optic infrastructure, and
- improve access to information about the location and availability of poles, ducts and pipes.

- 2) Public consultations were initiated in March 2008 on the National Broadband Network Request for Proposal and the regulatory arrangements for the National Broadband Network environment. With the announcement of the enhanced National Broadband Network on 7 April 2009, the Government has indicated it will consult further with key stakeholders, including State, Territory and Local Governments, including on facilitating the roll-out of fibre optic infrastructure.
- 3) On 17 March 2008, the Minister for Broadband, Communications and the Digital Economy invited the public to provide submissions that would assist the Panel of Experts in the development of the Request for Proposals (RFP). A number of local governments and councils responded to the call for submissions, including the Council of Mayors (South East Queensland), the Central NSW Councils organisation and the South West Group (Western Australia). These and other submissions were published on the Department's website at <http://www.dbcde.gov.au>. These submissions contain views also relevant to the Government's enhanced National Broadband Network initiative.

In relation to the enhanced National Broadband Network announced on 7 April 2009, the Government is consulting with local government bodies and other stakeholders on proposed regulatory changes to facilitate the roll-out of the network. Parties interested in participating in consultations have been asked to register their interest, and to date there has been a very positive response. In addition to considering written submissions, the Department will actively engage with relevant organisations.

- 4) The detailed design for the enhanced National Broadband Network will be informed by an implementation study and finalised by the company established to roll-out and operate the network. A FTTP network is different to a fibre-to-the-node network, both in terms of its typology and the equipment required.
- 5) The number of aggregation points required for the enhanced FTTP-based National Broadband Network will depend on the final network design which will be informed by an implementation study and finalised by the company established to roll-out and operate the National Broadband Network.
- 6) As noted above, the detailed design for the enhanced National Broadband Network will be informed by an implementation study and finalised by the company established to roll-out and operate the network. The ability to locate facilities underground depends on a number of factors including the operational feasibility and cost.