



**Australian Government**

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**Department of Broadband,  
Communications and the Digital Economy**

our reference: 2010/1190

Mr Russell Chafer  
Secretary  
Joint Committee of Public Accounts and Audit  
Parliament House  
CANBERRA ACT 2600

Dear Mr Chafer

***Review of Auditor-General's Report No 20 – The National Broadband Network  
Request for Proposal Process***

I refer to email correspondence from Dr Narelle McGlusky dated 16 March 2010 enclosing the Proof Hansard of the 11 March JCPAA hearing and requesting the Department to provide responses to those matters taken on notice. I refer also to the letter dated 1 June 2010 from the Chair of the Committee addressed to the Secretary regarding this matter.

We have examined the Hansard and provide below answers to the queries raised by Committee members. As a number of questions put to Departmental witnesses by different Committee members dealt with the same issues, for ease of reference we have, where appropriate, consolidated our responses under related subjects while still identifying the Committee member putting particular questions. (References to relevant pages of the Proof Hansard where the questions taken on notice appear have also been included.)

In our answers below, you will note that we have identified a number of documents requested by Committee members which we are unable to provide at this time. This is due to continuing consultations with the Minister as to whether he wishes to withhold the documents on the basis of public interest immunity. I will advise you further once we know the Minister's intention in this regard.

***Question***      *Mrs Bronwyn Bishop asked for a list of who was invited to make submissions to assist the development of the RFP document. Mr Georgiou asked for details of the membership of the committee considering those submissions and Mrs Bronwyn Bishop asked for the details of those members (PA17-18).*

**Answer**

From 17-30 March 2008, industry and the public were invited to provide written submissions, on the basis that they may be published, to assist in the development of the National Broadband Network (NBN) Request for Proposals (RFP) documentation. The Panel of Experts, the formation of which the Minister had announced on 11 March 2008,

considered these submissions. A separate committee to the Panel was not involved in considering these submissions.

In total, 156 individuals and organisations made submissions. Most can be accessed at the following location (and are also listed at Attachment A to this letter):

[http://www.archive.dbcde.gov.au/2009/april/national\\_broadband\\_network/submissions](http://www.archive.dbcde.gov.au/2009/april/national_broadband_network/submissions)

Details of the Panel of Experts membership are set out below:

The Panel was chaired by the then Secretary of the Department of Broadband, Communications and the Digital Economy, Ms Patricia Scott. The other members of the panel were:

- Mr John Wylie, Lazard Carnegie Wylie CEO.
- Mr Tony Mitchell, Allphones Chairman.
- Laureate Professor Rod Tucker, University of Melbourne.
- Professor Emeritus of Communications, Reg Coutts, University of Adelaide.
- Mr Tony Shaw, former Australian Communications Authority Chairman.
- Dr Ken Henry AC, Treasury Secretary.

Biographical information on Panel members that accompanied the Minister's media release announcing the formation of this body can be accessed on the Minister's website at the following location:

[http://www.minister.dbcde.gov.au/media/media\\_releases/2008/016](http://www.minister.dbcde.gov.au/media/media_releases/2008/016)

**Question**      *Senator Barnett asked for a breakdown of the \$17 million cost to the Department of the RFP process, including the cost of external consultants (PA 20).*

**Answer**

The National Broadband Network RFP process incurred expenses of \$17,010,365 (exclusive of GST). This includes:

Panel of Experts	\$ 604,918
Consultants/Advisers	\$11,220,283
Evaluation facilities	\$ 696,392
Employee expenses	\$ 4,488,772

Consultants

Consultant and adviser costs include:

Frontier Economics	\$1,312,389
KPMG Pty Ltd	\$2,846,262
GQ-AAS Pty Ltd	\$1,342,293
Adelaide Research	\$ 13,636
Corrs Chambers Westgarth	\$3,379,947
Australian Government Solicitor	\$2,316,001
Strategic Adviser (John Wylie)	\$ 9,755

**Question** *Mrs Bronwyn Bishop asked for the date that the Department first advised the Minister in regard to compensation risk and whether that advice was verbal or written (PA 21). Senator Barnett asked the Department to identify each and every occasion that risks was identified to the Government and the Department's assessment of that risk. Senator Barnett also asked for the Department's assessment of risk in and around September of 2008 and if and when the Minister was advised of that risk. Mrs Bronwyn Bishop asked for any correspondence that contained advice to the Government of that risk (PA 21-22).*

*Senator Barnett asked whether the Minister was advised of the level of risk when the Department received the Frontier Economics report in September 2008 dealing with possible compensation costs. Mrs Bronwyn Bishop asked for a chronology of the reports on risk provided to the Minister up until and including 3 February 2009 (PA 24).*

**Answer**

The risk of compensation being payable to Telstra in the event that another organisation were to be the successful proponent charged with the task of building a new optic fibre broadband network that involved the 'cutover' (compulsory use) of Telstra assets was first identified in the Department's Incoming Government Brief. However, quantifying this risk was difficult until relatively late in the RFP process. It was only when there was greater detail available from non-Telstra proponents (in their more developed proposals) regarding their proposed use of Telstra assets and how they intended to compensate Telstra for that use, that more meaningful assessments of compensation risk could be made.

*Chronology of Compensation Risk Advice*

This area of risk was held in constant scrutiny by the Minister and the Department throughout the RFP process; including as part of regular briefings on the progress of the RFP process prepared by the Department and presented to the Minister and his office. Those briefings also regularly noted that the materiality of these risks would be better understood once proposals had been received under the RFP process. These exchanges occurred on the following:

- 30 November 2007
- 14 December 2007
- 16 January 2008
- 18 January 2008
- 5 June 2008
- 26 June 2008
- 27 July 2008
- 1 September 2008
- 17 September 2008
- 18 September 2008
- 19 September 2008
- 29 October 2008
- 7 November 2008
- 20 January 2009

*Frontier Economics advice*

The advice on risk provided by Frontier Economics in September 2008 (and further refined in September and November 2008) did not take the form of a comprehensive stand-alone report. As the compensation risk issue was already well flagged, the work undertaken by Frontier Economics was not fundamentally a new or revised assessment of these risks. Rather, the advice was focused on developing preliminary estimates of the ranges of compensation that might be payable to Telstra for use of its assets by other parties under various scenarios.

Frontier Economics was requested to provide advice to the NBN Taskforce at that stage of the RFP process as the direction non-Telstra proponents were taking in developing their proposals had begun to acquire a greater level of clarity. The information from Frontier Economics was incorporated in subsequent documents and presentations prepared for the Minister (including in final form as an attachment to the Panel of Experts' evaluation report) but was not the subject of a separate advice document to the Minister.

*Correspondence*

The Department is not at this time able to provide copies of correspondence on compensation risk or to expand on the nature and detail of the advice and risk assessments contained in the documents and presentations cited above.

We are at present consulting the Minister in respect of these documents to ascertain whether he wishes to both withhold these documents and also not provide further detail as to their content on the grounds of public interest immunity.

**Question**      *Senator Barnett asked for a copy of the Frontier Economics report dealing with compensation risk prepared in September 2008 and the associated reports on this issue from KPMG and Corrs Chambers Westgarth (PA 23).*

**Answer**

The advice on risk provided by Frontier Economics in September 2008 (and further refined in September and November 2008) was not in a form of a comprehensive stand-alone report. The advice included preliminary estimates of the ranges of compensation that might be payable to Telstra for use of its assets under various scenarios.

The advice on compensation issues provided by KPMG and Corrs Chambers Westgarth was not delivered to the Department as a report. Rather, KPMG and Corrs Chambers Westgarth views were taken into account by Frontier Economics in the process of developing their advice to the Department.

As is the case with the request for copies of correspondence on compensation risks, the Department is consulting with the Minister to ascertain whether he wishes to withhold the Frontier Economics advice on grounds of public interest immunity. Accordingly, the Department is not able to provide the Frontier Economics advice on compensation risk at this time.

**Question** *Mrs Bronwyn Bishop asked for a copy of the Panel of Experts Letter to the Minister dated 20 January 2009 accompanying the Panel's evaluation report on proposals considered and for a copy of the evaluation report itself (PA 32-33).*

**Answer**

Elements of the Panel of Experts' evaluation report were tabled in the Senate on 26 October 2009 along with appendices to the ACCC's report. Observations made by the Panel of Experts that were included in their report were publicly released in April 2009 and are available on the Department's website.

With regard to the letter from the Chair of the Panel of Experts to the Minister dated 20 January 2009 and those sections of the evaluation report that have not been previously released, the Department is consulting with the Minister to ascertain whether he wishes to withhold this material on grounds of public interest immunity. Accordingly, the Department is not at this time able to provide this material.

Yours sincerely









































































Marianne Cullen  
First Assistant Secretary  
NBN Implementation Division  
11 June 2010








## Submissions

From 17 - 30 March 2008, industry and the public were invited to provide written submissions to the Panel of Experts to assist in the development of the NBN Request for Proposals documentation on the basis that they may be published.





















Submissions received included the following:

-  [ACT Government \(PDF, 186.2 KB\)](#)
-  [Alcatel-Lucent \(PDF, 42.2 KB\)](#) and  [attachment \(PDF, 1.3 MB\)](#)
-  [Anonymous 1 \(PDF, 14.7 KB\)](#)
-  [Anonymous 2 \(PDF, 15.1 KB\)](#)
-  [Anonymous 3 \(PDF, 17.0 KB\)](#)
-  [Antoniou, Tony \(PDF, 26.4 KB\)](#)
-  [Arnold, Marie \(PDF, 19.1 KB\)](#)
-  [AUSTAR \(PDF, 306.8 KB\)](#)
-  [Axia \(PDF, 82.4 KB\)](#)
-  [Bayard, Andrew \(PDF, 33.5 KB\)](#)
-  [BBW Telecom \(PDF, 105.3 KB\)](#)
-  [Bega Valley Shire Council \(PDF, 237.1 KB\)](#)
-  [Bradley, Craig \(PDF, 15.7 KB\)](#)
-  [Bruce, Robert James \(PDF, 19.7 KB\)](#)
-  [BT \(PDF, 187.9 KB\)](#)
-  [Burke, Craig \(PDF, 20.0 KB\)](#)
-  [Caladine, Dr Richard \(PDF, 16.1 KB\)](#)
-  [Carrison, Douglas \(PDF, 14.9 KB\)](#)
-  [Casha, Michael \(PDF, 18.9 KB\)](#)
-  [Centre for Appropriate Technology \(PDF, 175.4 KB\)](#)
-  [CENTROC \(PDF, 755.9 KB\)](#)
-  [Clavell, Nick \(PDF, 18.3 KB\)](#)
-  [Communications Expert Group \(PDF, 49.1 KB\)](#)
-  [Communications, Electrical and Plumbing Group \(PDF, 41.1 KB\)](#)
-  [Community and Public Sector Union \(PDF, 52.5 KB\)](#)
-  [Competitive Carriers Coalition \(PDF, 46.9 KB\)](#)
-  [Consumers Telecommunications Network \(PDF, 67.1 KB\)](#)
-  [Council of Mayors \(South East QLD\) \(PDF, 215.9 KB\)](#)
-  [CW \(PDF, 13.6 KB\)](#)

-  [Daniel \(PDF, 16.5 KB\)](#)
-  [Day, Troy \(PDF, 15.1 KB\)](#)
-  [Deecke, Michael \(PDF, 22.5 KB\)](#)
-  [Demand Broadband \(PDF, 461.8 KB\)](#)
-  [Dixon, Ben \(PDF, 15.2 KB\)](#)
-  [Dowse, Peter \(PDF, 23.8 KB\)](#)
-  [Elders Communications \(PDF, 919.0 KB\)](#)
-  [Emery, Matt \(PDF, 18.6 KB\)](#)
-  [Engineers Australia \(PDF, 151.1 KB\)](#)
-  [Ericsson \(PDF, 61.4 KB\)](#)
-  [Eyre Regional Development Board \(PDF, 50.8 KB\)](#)
-  [Fasciani, Daniel \(PDF, 16.4 KB\)](#)
-  [Foley, Tim \(PDF, 19.5 KB\)](#)
-  [FTTP special interest group \(PDF, 1.2 MB\)](#)
-  [G9 \(PDF, 211.0 KB\)](#)
-  [Gans, Prof Joshua \(PDF, 79.0 KB\)](#)
-  [Gerrand, Peter \(PDF, 35.5 KB\)](#)
-  [GHD \(PDF, 120.3 KB\)](#)
-  [Gilbert, Samuel \(PDF, 48.2 KB\)](#)
-  [Graham, Prof Phil \(PDF, 28.8 KB\)](#)
-  [Hadrill, Shaun \(PDF, 19.1 KB\)](#)
-  [Harris, Chris \(PDF, 15.7 KB\)](#)
-  [Harris, David \(PDF, 21.4 KB\)](#)
-  [Haswell, Philip \(PDF, 19.8 KB\)](#)
-  [Havyatt Associates \(PDF, 119.5 KB\)](#)
-  [Hayhurst, Jan \(PDF, 15.3 KB\)](#)
-  [Hemlof, Loris Erik Kent \(PDF, 55.0 KB\)](#)
-  [Herbert, Ross \(PDF, 22.0 KB\)](#)
-  [Heymans, Paul \(PDF, 22.1 KB\)](#)
-  [Holdenson, Peter \(PDF, 21.4 KB\)](#)
-  [Hood, Jan \(PDF, 14.5 KB\)](#)
-  [Horizon Broadband Communication \(PDF, 122.5 KB\)](#)
-  [Hosking, Tim \(PDF, 20.4 KB\)](#)
-  [ICS Industries \(PDF, 21.5 KB\)](#)
-  [ICT Strategic Services \(PDF, 184.9 KB\)](#)
-  [Ignatius, Gareth \(PDF, 15.4 KB\)](#)
-  [iiNet \(PDF, 841.9 KB\)](#)
-  [Mediate Consulting \(PDF, 64.6 KB\)](#)
-  [International Information Security Consultants \(PDF, 62.7 KB\)](#)
-  [Internet Society of Australia \(PDF, 135.4 KB\)](#)
-  [Internode \(PDF, 143.1 KB\)](#)

-  [Jensen, Gerald \(PDF, 44.7 KB\)](#)
-  [Joseph, Jarrod \(PDF, 35.2 KB\)](#)
-  [Juniper Networks \(PDF, 310.0 KB\)](#)
-  [Karen \(PDF, 14.6 KB\)](#)
-  [Kelly, Mike \(PDF, 20.1 KB\)](#)
-  [Kerr, Dr Tony \(PDF, 88.4 KB\)](#)
-  [Leahey, Stephen \(PDF, 22.4 KB\)](#)
-  [Macquarie Telecom \(PDF, 28.9 KB\)](#)
-  [Marscom Television \(PDF, 47.9 KB\)](#)
-  [Mathurn, Shane \(PDF, 25.8 KB\)](#)
-  [McPhee, Neil \(PDF, 18.7 KB\)](#)
-  [Media Access Australia, Australian Communications Exchange, Consumers Telecommunications Network \(PDF, 57.6 KB\)](#)
-  [Moffat, Ann \(PDF, 14.9 KB\)](#)
-  [Moody, Linda \(PDF, 19.8 KB\)](#)
-  [Moore, Laurie \(PDF, 19.4 KB\)](#)
-  [Moore, Malcolm \(PDF, 980.2 KB\)](#)
-  [Morton, Don \(PDF, 16.2 KB\)](#)
-  [Narna \(PDF, 19.4 KB\)](#)
-  [Ng, Jimmy \(PDF, 65.3 KB\)](#)
-  [Nishant \(PDF, 19.3 KB\)](#)
-  [Norris, Paul \(PDF, 25.1 KB\)](#)
-  [Northern Rivers Regional Organisation of Councils \(PDF, 120.5 KB\)](#)
-  [NSW Dept of Commerce, NSW Dept of State and Regional Development \(PDF, 44.0 KB\)](#)
-  [One Stop VOIP Shop \(PDF, 28.7 KB\)](#)
-  [OZtralia.com \(PDF, 156.6 KB\)](#)
-  [Pipe Networks \(PDF, 853.6 KB\)](#)
-  [Piper, Brennan \(PDF, 20.3 KB\)](#)
-  [Piper, Diane \(PDF, 14.8 KB\)](#)
-  [Ponti, Gus \(PDF, 18.9 KB\)](#)
-  [Raftopoulos, Dr Spiro \(PDF, 14.0 KB\)](#)
-  [Raleigh, Royce and Jeanne \(PDF, 30.1 KB\)](#)
-  [Rasmusson, Karl \(PDF, 18.0 KB\)](#)
-  [Reed, Scott \(PDF, 19.4 KB\)](#)
-  [Robinson, Mark \(PDF, 27.2 KB\)](#)
-  [Rogers, Craig \(PDF, 16.6 KB\)](#)
-  [Rudko, David \(PDF, 16.6 KB\)](#)
-  [Russell, Michael \(PDF, 18.7 KB\)](#)
-  [SA Government \(PDF, 40.9 KB\)](#)
-  [Samson, Matthew \(PDF, 61.9 KB\)](#)
-  [Savage, Scott \(PDF, 20.4 KB\)](#)
-  [Scott, Beren \(PDF, 23.8 KB\)](#)



-  [Shanks, Jakob \(PDF, 32.8 KB\)](#)
-  [Small Enterprise Telecommunications Centre Ltd \(PDF, 87.2 KB\)](#)
-  [Solomon, Mary \(PDF, 23.9 KB\)](#)
-  [South West Group \(PDF, 636.6 KB\)](#)
-  [Spurrier, Matthew \(PDF, 22.3 KB\)](#)
-  [Strachan, Andrew \(PDF, 14.9 KB\)](#)
-  [Sunshine Coast Regional Council \(PDF, 242.3 KB\)](#)
-  [Tasmanian Government \(PDF, 1.2 MB\)](#)
-  [Taylor, Alan \(PDF, 52.7 KB\)](#)
-  [Telstra Corporation Limited \(PDF, 169.7 KB\)](#)
-  [The Grange \(PDF, 25.6 KB\)](#)
-  [Toon, Geoffrey \(PDF, 17.0 KB\)](#)
-  [Torrento, Jason \(PDF, 19.9 KB\)](#)
-  [TransACT Capital Communications Pty Ltd \(PDF, 1.7 MB\)](#)
-  [Vodafone \(PDF, 1.3 MB\)](#)
-  [WA Government \(PDF, 136.3 KB\)](#)
-  [Watkin, Tony \(PDF, 19.6 KB\)](#)
-  [Weaver, Michael \(PDF, 19.9 KB\)](#)
-  [Williams, Lyle \(PDF, 19.3 KB\)](#)
-  [Woodman, Andrew \(PDF, 14.4 KB\)](#)
-  [Zafar, Zainuddin \(PDF, 19.7 KB\)](#)