

Senate Select Committee – Hansard Question on Notice 1

CHAIR—Is the department aware of potential constitutional issues in respect of access?

CHAIR—Without disclosing the legal advice, is it possible to indicate the nature of the question at issue?

Answer

The Department has sought legal advice on a range of matters associated with the National Broadband Network RFP process. All such advice is subject to legal privilege, and so, consistent with normal practice, the Department does not intend to disclose the detail of legal advice.

Further, as the RFP process remains live, the Department has considered the second question, but has nothing further to add, as a response to this question could compromise the integrity of the RFP process.

Senate Select Committee – Hansard Question on Notice 2

Senator LUDLAM—Has your department or anybody else, to your knowledge, modelled the electricity demand of that rollout?...

Senator LUDLAM—Is there any particular paper or piece of research that you rely on? Is that something that figures in your thinking at all?

Mr Lyons—We would not like to be speculating on what particular information is publicly available that is factoring into our thinking in terms of the assessment of proposals, because we have to be careful about what we say publicly about assessing proposals. We could provide you with information about publicly available reports about that issue.

Answer

A number of documents relating to the electricity consumption of broadband networks are listed below. The Department does not claim that this is an exhaustive list of relevant material and further does not endorse the material listed below, nor vouches for its accuracy. The material listed below should not be taken to imply any particular view on this matter in relation to the evaluation of National Broadband Network proposals.

The following documents are publicly available and a copy of each is attached:

Balinga, J., Ayre, R., Hinton, K., Sorin, W.V., Tucker, R.S., 2008, *Energy Consumption of the Internet*, Presentation at the Symposium on Sustainability of the Internet and ICT, November 25 & 26, University of Melbourne, www.ee.unimelb.edu.au/green_internet/multimedia/Slide_Packs/Jayant%20Baliga.pdf (accessed 23 March 2009).

Bianco, C., Cucchietti, F., & Griffa, G., 2007, *Energy consumption trends in the Next Generation Access Network – a Telco perspective*, Telecommunications Energy Conference 2007, Rome, www.polisave.polito.it/greenet/docs/TlcEnergyTrends.pdf (accessed 10 March 2009).

Gladisch, A., Lange, C., Leppla, R., 2008, *Power efficiency of optical versus electronic access networks*, T-Systems Enterprise Service GmbH and Deutsche Telekom, www.ecoc2008.org/documents/ECOCSymposiumPresentationAGladisch.pdf (accessed 10 March 2009).

Romero, A.F. & Kelly, T., August 2008, *NGNs and Energy Efficiency*, ITU-T Technology Watch Report No. 7, Telecommunication Standardization Policy Division, International Telecommunications Union, www.itu.int/dms_pub/itu-t/oth/23/01/T23010000070002PDFE.pdf (accessed 23 March 2009).

Tucker, R.S., “A Green Internet”, IEEE *Lasers and Electro-Optics Society (LEOS)*, 21st Annual Meeting, 9 November – 13 November 2008, Newport Beach, USA, www.ee.unimelb.edu.au/people/rst/talks/files/Tucker_Green_Plenary.pdf (accessed 25 March 2009).

The following papers are only available if purchased and as such have not been attached:

Balinga, J., Ayre, R., Sorin, W.V., Hinton, K., Tucker, R.S., 2008, *Energy Consumption in Access Networks*, Proceedings of the Optical Fibre Communications (OFC) Conference, San Diego,
<http://ieeexplore.ieee.org/Xplore/login.jsp?url=http%3A%2F%2Fieeexplore.ieee.org%2Fiel5%2F4512186%2F4528018%2F04528538.pdf%3Farnumber%3D4528538&authDecision=-203> (accessed 23 March 2009).

Balinga, J., Hinton, K., Ayre, R., Tucker, R.S., 2008, 'Carbon footprint of the Internet', *Telecommunications Journal of Australia*, vol, 59, no.1, p5.1 – 5.14,
<http://publications.epress.monash.edu/toc/tja/2009/59/1> (accessed 23 March 2009).

Senate Select Committee - Additional Question on Notice 1

Can you please outline what the process and timeframe will be after the Minister announces the winning bid?

Answer

The Government is considering the report from the Panel of Experts on the proposals received in response to the National Broadband Network RFP process.

Process and timeframes after a decision on the RFP is made and announced will be dependent on the outcome of the RFP process. It is not appropriate for the Department to comment while the matter is under consideration by the Government.

Senate Select Committee - Additional Question on Notice 2

What implications will the freeing-up of spectrum following the switch-over from analog to digital TV have for non-fibre technologies?

Answer

By non-fibre technologies we assume the Committee is referring to wireless radiocommunications technologies rather than non-fibre wireline technologies such as copper pairs and coaxial cable.

To the extent that suitable spectrum were to become available, it could facilitate the use of new wireless communications technologies and services. This could include technologies like 3G or 'Long Term Evolution' and services like broadband. However, it is too early to speculate on this matter.

In April 2008, the Minister announced that public consultation would be undertaken in 2009 on both the expiry of 15 year spectrum licences and the digital dividend.

Senate Select Committee – Additional Question on Notice 3

How many utility companies (eg power companies) currently own [and lease] their own fibre networks?

Answer

The Department notes that in a recent submission by Telstra to an ACCC process concerning the regulation of transmission services, Telstra identified 18 fibre network owners that offer a transmission service¹.

Of these owners, the following are known to be affiliated with an electricity utility:

- Nexium
- Transgrid
- SP-Ausnet
- Country Energy
- Ergon

We do not have information as to whether they lease capacity. To find out whether the companies lease their networks the Committee may wish to contact them directly.

¹ ACCC, *Domestic Transmission Capacity Service*, March 2009, pg. 17

Senate Select Committee - Additional Question on Notice 4

Given concerns about regulations lagging behind technological advances, what is the best way of ensuring that redundant regulations can be quickly identified and removed or other aspects of the regulatory regime streamlined on an ongoing basis?

Answer

The Department of Finance and Deregulation (Finance) is implementing a Deregulation Agenda as part of the Government's commitment to reducing the regulatory burden on Australian businesses, non-profit organisations and consumers. This Department is working closely with Finance in implementing its initiatives.

In addition, there are a number of mechanisms available to government for ensuring regulation remains up-to-date and fit for purpose.

It is common practice for stakeholders and other interested parties to make representations to government in relation to regulation that they consider is redundant or needs to be changed, either to reflect changes in the relevant industry or to improve and streamline existing processes. These representations can then be considered by government and may result in changes to existing legislation and regulatory regimes.

Government also frequently initiates consultation processes and reviews to consider the efficacy of existing regulation. For example, in April 2008, as an adjunct to the National Broadband Network Request for Proposal process, the Minister for Broadband, Communications, and the Digital Economy invited industry and other interested parties to provide submissions on regulatory issues associated with the National Broadband Network. This was in recognition of the fact that changes to existing telecommunications regulations may be necessary to facilitate the roll-out of a National Broadband Network, and to promote competition and the interests of consumers once the Network is rolled-out and in operation.

Often, legislation itself will include requirements for reviews of regulatory measures. For example, the *Telecommunications Act 1997* requires a review to be conducted before 1 July 2009 of the provisions of that Act that were inserted in 2005 to provide for the operational separation of Telstra.

The Government's Best Practice Regulation Handbook also recommends that Regulation Impact Statements for new regulation consider and establish a review strategy that will allow review processes and evaluation of new regulation after it has been in place for some time. This practice is widely observed.

Furthermore, the *Legislative Instruments Act 2003*, which establishes the basis for Commonwealth legislative instruments, includes provisions that provide for the sunseting (or automatic repeal) of legislative instruments after a period of ten years. A limited range of instruments is exempt from the sunseting regime. The aim of the sunseting provisions in the Legislative Instruments Act is to ensure that legislative instruments are regularly reviewed and only remain operative if they continue to be relevant.

Senate Select Committee - Additional Question on Notice 5

Given that the NBN will become a critical component of Australia's national infrastructure, how will the Government ensure there is a high level of consultation, collaboration and coordination across the three tiers of governments that will need to cooperate in an infrastructure project of this size and significance?

Answer

The RFP process thus far has involved consultation with a range of stakeholders, including other jurisdictions, through submissions:

- to the Panel of Experts to assist in the development of the National Broadband Network RFP;
- on regulatory issues and consumer safeguards associated with the National Broadband Network process; and
- on policy and funding initiatives to provide high speed broadband to premises that may not be outside the coverage of the National Broadband Network.

The Government also engages with other jurisdictions via the Online and Communications Council (OCC). The OCC is the peak ministerial forum across governments to consider and reach agreement on strategic approaches on information and communications issues of a national importance. Further information on the OCC may be obtained from *www.occ.gov.au*

The Government is considering the report from the Panel of Experts on proposals received in response to the National Broadband Network Request for Proposals (RFP) process. Until a decision is made and announced, it is not appropriate that the Department comments on this matter. Future consultation arrangements will be a matter for Government, and will depend on the outcome of the RFP process.

Senate Select Committee - Additional Question on Notice 6

Would there be any advantage in a merging of regulatory bodies, ACCC and ACMA, to reflect the increasing convergence of NGN technologies?

Answer

The merit of merging regulatory bodies is a policy matter for the Government.