

Senate Select Committee on the National Broadband Network

WRITTEN QUESTIONS ON NOTICE

Department of the Treasury

Hearings, 1 October 2009

Question: 1

Hansard Page: 2

Senator Fisher asked:

CHAIR: ... are you able to document to the committee a chronology of the actions that Treasury has been requested to take since the government announced its NBN round 1 policy, soon after coming into government?

Mr Murray—I think I will pass that to Mr Archer, certainly on those early stages. I can give you an outline for the current NBN, but I will pass to him for the early stages, and we may have to take some of this on notice.

CHAIR—I expect you will.

Mr Archer—If you are after dates and that sort of detail, I think we would have to take that on notice.

CHAIR—Please.

Mr Archer—I can speak generally. Treasury has been involved on an ongoing basis with these issues since the change of government and as the government's policy has developed and unfolded. In our role as advisers to the Treasurer, in the first instance, we will have advised the Treasurer periodically on developments in this area. Through the Secretary to the Treasury, we participated on the panel of experts. I think Dr Henry was acting more in a personal role rather than necessarily representing Treasury, but Dr Henry was on the panel of experts which assessed the tenders that came in response to that government process. When the government's policy direction changed in the wake of the outcome of that process, again Treasury participated in the development of the policy that underpinned the announcement on the National Broadband Network on 7 April. Again, that was on an ongoing basis.

CHAIR—Do any of you have anything further to add to that at this stage?

Mr Murray—No.

Question: 2

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Senator Fisher asked:

CHAIR—Then I would ask you to take on notice a supplement to that answer with dates and as much particularity as you feel you are able in respect of the actions that you took.

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Response to Questions 1 and 2:

It is routine that Treasury provides advice to the Treasurer on telecommunications policy and specific policy proposals as issues arise.

Fibre-to-the-Node (FTTN) National Broadband Network (NBN)

On 11 March 2008, it was announced that a Panel of Experts was to assess proposals to build a NBN.

The Panel included Treasury Secretary Dr Ken Henry AC. Dr Henry was appointed as a member of the Panel on 17 March 2008.

- Dr Henry participated in meetings, including during the evaluation period, and contributed to Panel reports.

The Request for Proposal also ascribed to Treasury a role in responding to any requests for advice from the NBN taskforce on economic and budgetary issues raised in the proposals, including proposals to change economic regulation.

On 22 January 2009, the Panel's report was received by the Minister for Broadband, Communications and the Digital Economy.

Fibre-to-the-Premises (FTTP) NBN

Prior to announcement

As advised in Treasury's response to Budget Estimates 2-4 June 2009 Question on Notice (bet 160):

Treasury was asked to provide briefing to the Treasurer for Cabinet related deliberations on the development of the new policy, and also worked with other central agencies and the Department of Broadband to prepare advice for those Cabinet related deliberations. This work commenced in the week beginning Monday, 19 January 2009 and continued until the announcement of the new policy on 7 April 2009.

Treasury was involved in discussions and preparation of advice that ranged across the spectrum of issues associated with the new policy, but its primary focus reflected Treasury portfolio responsibilities — specifically issues relating to competition policy, regulation and well-functioning markets, the federal budget, the financing of Government investment and expenditure, and economic impacts (particularly in relation to employment).

Post announcement

Central agencies, in conjunction with the Department of Broadband, Communications and the Digital Economy, have provided advice to the Government on the NBN

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proposal during its development. Treasury's role is ongoing and part of the department's usual business.

Mr Richard Murray, Executive Director, Policy Coordination and Governance is the Treasury representative on the NBN Implementation Study – Steering Committee.

The Steering Committee provides strategic oversight to the Implementation Study process and is a high level forum to identify and discuss relevant issues on development of the report(s) arising from the Implementation Study.

The Steering Committee was established in August 2009 and meets fortnightly.

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Question: 3

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Senator MacDonald asked:

Senator IAN MACDONALD—A very good point, and don't we know it! But you manage it. Can you remind me of where the \$43 billion is coming from? That is your area, isn't it?

Mr Murray—Yes. As you probably recall, the Minister for Broadband, Communications and the Digital Economy has outlined that the centrist scenario would not be that the government would come up with the whole \$43 billion over the eight-year period; up to 49 per cent of that would come from the private sector—

Senator IAN MACDONALD—They hope.

Mr Murray—Even though the government is committed up to the whole \$43 billion, the proposal is that 49 per cent would come from the private sector over the eight-year period. The assumption has been made that the other 51 per cent would have around a 50-50 debt-equity ratio. When you look at major infrastructure projects both public and private, to look at that sort of debt-equity ratio looks pretty reasonable to us, so that appears to us to be a pretty robust assumption at this stage. That leaves you with an equity funding by the government of about \$11 billion. Not all of that is going to be spent over the forward estimates, but we have in the budget numbers enough to cover the government's equity investment over the next four years. A lot of that will not ramp up for a couple of years.

The first part of it that we have enunciated in the budget is the \$4.7 billion that the government had pledged in election commitments. I think it is \$2.4 billion that comes from the Building Australia Fund, and the other \$2.3 billion would come from government borrowing and through the government's proposal to have Aussie Infrastructure Bonds. The rest of the amount that is in there to cover the government equity investment in this project over the forward estimates is in the contingency reserve. It is in the contingency reserve for two reasons. Firstly, we need to await the implementation study to get the exact profile that we are thinking about for the equity investment. Secondly, there are commercial-in-confidence issues around exactly how this is going to unfold as a project, around the involvement of the private sector and around the involvement of the Tasmanian part of this project. So it was quite clear that we needed to keep part of that in the contingency reserve, because it is a contingency and because of the commercial aspects around that.

Senator IAN MACDONALD—I do not want to impose unnecessarily on the department, but could you give us a note identifying where we would find all those figures in the budget?

Mr Murray—That would be fine.

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Response to Question No. 3:

The 2009-10 Budget papers provide for related capital and expense measures titled *National Broadband Network — initial investment*, *National Broadband Network — implementation and establishment* and *National Broadband Network — regional backbone blackspots program*. Please refer to:

- Budget Paper No.2 (pp. 44, 118-119, 400, 409 and 410); and
- Broadband, Communications and the Digital Economy portfolio Budget statement (pp. 11, 22, 25-26 and 36).

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Question: 4

Hansard Page: 10-11

Senator Fisher asked:

CHAIR—I have a question on this point. You indicated that the Office of Financial Management will be working with the implementation study. In July the CEO of the Office of Financial Management, Mr Hyden, reportedly told the press that he had heard nothing and, more particularly, had received no information on the structure and form of the bonds or the possible timing of their issuance. That was three months after the minister announced this was going to happen and two months after the budget papers. You say this is very complex and there will be more closer to the time. So, firstly, has the situation that Mr Hyden stated to the press in July changed? Secondly, what is the normal lead time for the involvement of the Office of Financial Management in a forecasting of debt raising, particularly one potentially as significant as this?

Mr Murray—This is a very fair question. I do not want to speak for Mr Hyden, but my understanding in conversations with him is that he was misquoted and taken out of context. You should not always believe what you read in the press!

CHAIR—That is why I asked you to reflect. Has he been contacted by those of implementation study yet?

Mr Murray—This is mainly a Treasury and Australian Office of Financial Management issue, and there was pretty strong dialogue way before the budget and way before finalisation of the NBN project. Between late January and the announcement of the project there were discussions between the Treasury and the Australian Office of Financial Management, and there have been discussions since. The contacts between us and the implementation study team will be to try and get a better handle on the exact profile of funding requirements, particularly going out across the forward estimate years. In the lead-up to each financial year there will be the start of detailed planning over this. But we have worked on the concepts around Aussie infrastructure bonds right from the beginning, and we will continue to work on them over the next couple of years as we lead up to the actual issuing of these bonds.

CHAIR—In terms of the normal lead time for the Office of Financial Management in forecasting debt raising, what is the normal time, has it already been breached in this case or is it still able to be observed and, if so, what is the plan?

Mr Murray—You would have to ask Neil Hyden for all those sorts of details, but here clearly it has not been breached. The funding requirements are not till at least 2010-11 or maybe 2011-12, but certainly we are some way away from the actual bond issuance. In no way has any of the planning being compromised—far from it. An important decision in the whole forward planning of a bond program is the actual budget, like the budget bottom line, and of course you do not do that till May, literally a month and a half before the start of the next financial year. If you go back, maybe

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there is planning back in April, so April before the next financial year is when you are really getting into the strong detail about what the bond program is going to look like.

CHAIR—You said earlier that those are questions that should be asked of Mr Hyden. He ain't here and his agency is in your portfolio, so can you, as Treasury, please take those questions on notice.

Response to Question No. 4:

The press reports in July 2009 referred to by the Committee Chair were occasioned by the release by the Committee of the AOFM's letter to it of 6 July 2009. Some reports incorrectly interpreted the letter as indicating that the AOFM had concerns about consultation processes in relation to the issuance of Aussie Infrastructure Bonds. Where reporters contacted the AOFM they were advised that the AOFM had no such concerns.

It remains the case that the AOFM has not had any direct involvement or contact with the implementation study. It is not represented on the committee overseeing the implementation study. However it has had some discussions with the Department of the Treasury, which is directly involved with the implementation study, concerning Aussie Infrastructure Bonds.

Planning for debt issuance is undertaken in conjunction with formulation and updating of budget estimates. An indicative debt issuance program for the forthcoming financial year is announced at the time of the Budget. The issuance program is indicative only and can change during the course of the financial year.

Adjustments to issuance can be made at relatively short notice.

The figures given by Mr Murray to the Committee indicate that Government borrowing to fund its equity contribution to the National Broadband Network might be of the order of \$8.6 billion (comprising an \$11 billion equity contribution less \$2.4 billion from the Building Australia Fund), not all of which would be required over the forward estimates. An addition of \$8.6 billion to the borrowing program, spread over (say) four years, would represent an increase of only \$2.15 billion per annum. An adjustment of this magnitude would be very manageable.

The Government has announced that the structure and form of Aussie Infrastructure Bonds will be finalised in conjunction with the implementation study for the NBN. To the extent that the introduction of Aussie Infrastructure Bonds involves the use of borrowing instruments with a different form from existing instruments, additional time would be required for their design, marketing and the implementation of administrative arrangements.

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Question: 5

Hansard Page: 11

Senator Ludlam asked:

Senator LUDLAM—You said the first issue would be a couple of years away, but can you be a little more specific? If the project rolls out as anticipated, what would you expect would be a reasonable date for the first issue?

Mr Archer—We might need to take that on notice. Initially there is \$2.4 billion coming from the Building Australia Fund. As that is expended over time obviously the time will approach that the bond issuance will have to take place. But I do not have that information.

Mr Murray—From recollection, it will be sometime during 2010-11 but, as Mr Archer says, we will take that on notice and come back to you on that. The real detail on this will not be available until we get the implementation study, but we can give you some indications out of the current budget.

Response to Question 5:

No further indication on the timing of the first issuance of Aussie Infrastructure Bonds (AIBs) is available from the 2009-10 Budget.

The structure and form of AIBs will be informed by the National Broadband Network implementation study, including the volume of the task and the timing of financing requirements. Consideration of AIB issues will continue in parallel with the implementation study.

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Question: 6

Hansard Page: 14-15

Senator Fisher asked:

CHAIR—There is one further question that you might take on notice, given that Mr Hyden goes on in the same letter, in July, to the secretariat of the committee to say, ‘No detailed provision has been made at that stage for the inclusion of infrastructure bonds in the AOFM’s issuance plans.’ Can you please inform the committee as to whether that position has changed since July?

Mr Murray—I will take that on notice. His words do not surprise me at all. Because all of these numbers are in the budget, the AOFM obviously have a profile out of what the funding looks like, at least with the current budget numbers out for the four years. However, detailed planning, as I have explained, really awaits what the budget will look like for the coming year.

Answer to Question No. 6:

The structure and form of Aussie Infrastructure Bonds will be finalised in conjunction with the implementation study for the NBN. As such, at this stage, no provision has been for the inclusion of Aussie Infrastructure Bonds in the AOFM’s issuance plans.

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Question: 7

Hansard Page: 15

Senator Birmingham asked:

Senator BIRMINGHAM—Of the \$4.7 billion that is known in public versus what is in the contingency for the forward estimates, how much is allocated for the current financial year or are you not able to reveal that?

Mr Murray—We do have numbers on that. We can take that on notice. I think it is around \$800 million, but we would have to get back to you on that.

Response to Question No. 7:

As outlined in Budget Paper No.2 (p. 409), the Government's initial investment includes \$4.45 billion for an equity injection to the company that will build and operate the network and an investment in the early rollout of a fibre-based broadband network in Tasmania. The profile of these investments includes \$750.0 million in 2009-10.

A further \$250.0 million in 2009-10 will be invested to upgrade regional backbone blackspots.

The Department of Broadband, Communications and the Digital Economy will also receive \$53.2 million in 2009-10 for NBN implementation and establishment.

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Question: 8

Hansard Page: 15

Senator Lundy asked:

Senator LUNDY—I have a quick question and you may wish to take it on notice. I am interested in hearing a summary view of Treasury's concerns about the effects of long-term vertical integration and, indeed, horizontal integration in the telecommunications sector and the impact that has on the market.

Mr Murray—We will take that on notice. Obviously, the ACCC, being an independent regulatory agency, has quite strong views on this and can make them public. We are a policy-advising agency, advising direct to the Treasurer and to the government, so we need to be a bit circumspect in what we say.

Response to Question No. 8:

In the telecommunications sector, as with other sectors of an economy, a vertically integrated incumbent can leverage off its ownership of bottleneck assets in downstream contestable markets. This may raise concerns about the extent to which the incumbent has the ability and the incentive to favour its own retail business over its wholesale customers when providing access to various services, particularly those which are key upstream inputs for providing downstream services to end-users. The incumbent may also have incentives to strategically delay or limit investment in access services and related infrastructure.

These incentives may lead to discriminatory behaviour by the vertically integrated incumbent that limits the development of effective competition in the provision or availability of services, including new and improved services.

A horizontally integrated telecommunications service provider, with control of multiple telecommunications platforms, may have the ability and incentive to limit facilities-based competition. It may also have an advantage in negotiating arrangements with content providers to the detriment of both content providers and competing service providers. If a dominant service provider is able to control the delivery of content, in particular premium content, it may limit consumer choice, both of carriage and content service providers.

In the Australian context, Telstra's integrated position has led to long-standing and widespread concerns that the existing telecommunications structure is failing consumers, businesses and the economy in general. The ACCC has been critical of Telstra's integration, its impact on access and competition and the current operational separation arrangements.

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- “In the ACCC’s view, Telstra’s vertical and horizontal integration, and the market power that this gives it, impedes the operation of the access regime and the development of more extensive competition in the Australian telecommunications market.

In light of Telstra’s ongoing market power, the ACCC recommended to the government that it introduce policy changes to reduce reliance on access-based competition. These included that the government introduce:

- legislation requiring Telstra to divest its hybrid fibre coaxial (HFC) network and its 50 per cent
- shareholding in Foxtel unless it can be shown that the costs in doing so would outweigh the benefits
- legislation to increase access to pay TV content to help provide extra revenue streams for broadband networks.”

[ACCC telecommunications reports 2002–03]

- “Telstra and other access providers seem to have general incentives to delay, through legal, price and non-price means, the timely provision of access on reasonable terms.” [ACCC telecommunications reports of 2006-07]
- “...the incumbent [Telstra] still retains enduring and substantial market power, restricting the extent to which end users of telecommunications services can fully reap the benefits of the dynamic process of competition and innovation.” [ACCC telecommunications reports 2007-08]
- “[w]e [the ACCC] continue to receive complaints of conduct that suggest that the objective of equivalence, which was the objective of the [operational separation] regime, is not being achieved. There have been some instances of conduct [by Telstra] since the regime’s inception which, while it is not clear they breach the operational separation plan, do not promote the objective of equivalence which was the fundamental objective of the plan in the first place.” [Parliament of Australia, *Official Committee Hansard of the Senate Standing Committee on Economics Budget Estimates Hearing*, 5 June 2008]

The OECD has also raised concerns about the structure of Australia’s telecommunications sector. The *OECD Economic Surveys: Australia* of 2008 states:

“The broadband sector, which is regulated by the ACCC [Australian Competition and Consumer Commission], is dominated by the incumbent, Telstra, which was privatised at the end of 2006. This company has more than two-thirds of the market and plays a major role on all platforms for access to these services. Telstra controls over 80% of the sector that uses digital subscriber line (DSL) technology, and it owns the copper telecommunications network. It also owns more than 50% of cable-related infrastructure and has a strong presence in mobile services that use wireless technologies. This impedes competition between technologies, yet such competition is fruitful as it encourages product differentiation. Indeed, Telstra has little incentive to develop new services for each of these platforms, which would tend to lower the value of its current assets (i.e. copper network) and reduce income earned on other networks.”