

APPENDIX 1

Terms of Reference

- (1) That a select committee, to be known as the Select Committee on the National Broadband Network, be established to inquire into and report by 30 March 2009 on:
 - (a) the Government's proposal to partner with the private sector to upgrade parts of the existing network to fibre to provide minimum broadband speeds of 12 megabits per second to 98 per cent of Australians on an open access basis; and
 - (b) the implications of the proposed National Broadband Network (NBN) for consumers in terms of:
 - (i) service availability, choice and costs,
 - (ii) competition in telecommunications and broadband services, and
 - (iii) likely consequences for national productivity, investment, economic growth, cost of living and social capital.
- (2) That the committee's investigation include, but not be limited to:
 - (a) the availability, price, level of innovation and service characteristics of broadband products presently available, the extent to which those services are delivered by established and emerging providers, the likely future improvements in broadband services (including the prospects of private investment in fibre, wireless or other access networks) and the need for this government intervention in the market;
 - (b) the effects on the availability, price, choice, level of innovation and service characteristics of broadband products if the NBN proceeds;
 - (c) the extent of demand for currently available broadband services, what factors influence consumer choice for broadband products and the effect on demand if the Government's fibre-to-the-node (FTTN) proposal proceeds;
 - (d) what technical, economic, commercial, regulatory and social barriers may impede the attainment of the Government's stated goal for broadband availability and performance;
 - (e) the appropriate public policy goals for communications in Australia and the nature of regulatory settings that are needed, if FTTN or fibre-to-the-premise (FTTP), to continue to develop competitive market conditions, improved services, lower prices and innovation given the likely natural monopoly characteristics and longevity of the proposed network architecture;

- (f) the possible implications for competition, consumer choice, prices, the need for public funding, private investment, national productivity, if the Government does not create appropriate regulatory settings for the NBN;
- (g) the role of government and its relationship with the private sector and existing private investment in the telecommunications sector;
- (h) the effect of the NBN proposal on existing property or contractual rights of competitors, supplier and other industry participants and the exposure to claims for compensation;
- (i) the effect of the proposed NBN on the delivery of Universal Service Obligations services;
- (j) whether, and if so to what extent, the former Government's OPEL initiative would have assisted making higher speed and more affordable broadband services to areas under-served by the private sector; and
- (k) the cost estimates on which the Government has based its policy settings for a NBN, how those cost estimates were derived, and whether they are robust and comprehensive.

(3) That, in carrying out this inquiry, the committee will:

- (a) expressly seek the input of the telecommunications industry, industry analysts, consumer advocates, broadband users and service providers;
- (b) request formal submissions that directly respond to the terms of reference from the Australian Competition and Consumer Commission, the Productivity Commission, Infrastructure Australia, the Department of the Treasury, the Department of Finance and Deregulation, and the Department of Infrastructure, Transport, Regional Development and Local Government;
- (c) invite contributions from organisations and individuals with expertise in:
 - (i) public policy formulation and evaluation,
 - (ii) technical considerations including network architecture, interconnection and emerging technology,
 - (iii) regulatory framework, open access, competition and pricing practice,
 - (iv) private sector telecommunications retail and wholesale business including business case analysis and price and demand sensitivities,
 - (v) contemporary broadband investment, law and finance,
 - (vi) network operation, technical options and functionality of the 'last mile' link to premises, and
 - (vii) relevant and comparative international experiences and insights applicable to the Australian context;

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- (d) advertise for submissions from members of the public and to the fullest extent possible, conduct hearings and receive evidence in a manner that is open and transparent to the public; and
 - (e) recognise the Government's NBN proposal represents a significant public sector intervention into an increasingly important area of private sector activity and that the market is seeking openness, certainty and transparency in the public policy deliberations.
 - (4) That the committee consist of 7 senators, 2 nominated by the Leader of the Government in the Senate, 4 nominated by the Leader of the Opposition in the Senate, and 1 nominated by any minority party or independent senators.
 - (5) (a) On the nominations of the Leader of the Government in the Senate, the Leader of the Opposition in the Senate and any minority party and independent senators, participating members may be appointed to the committee;
 - (b) participating members may participate in hearings of evidence and deliberations of the committee, and have all the rights of members of the committee, but may not vote on any questions before the committee; and
 - (c) a participating member shall be taken to be a member of the committee for the purpose of forming a quorum of the committee if a majority of members of the committee is not present.
 - (6) That the committee may proceed to the dispatch of business notwithstanding that all members have not been duly nominated and appointed and notwithstanding any vacancy.
 - (7) That the committee elect as chair one of the members nominated by the Leader of the Opposition in the Senate.
 - (8) That the chair of the committee may, from time to time, appoint another member of the committee to be the deputy chair of the committee, and that the member so appointed act as chair of the committee at any time when there is no chair or the chair is not present at a meeting of the committee.
 - (9) That, in the event of an equally divided vote, the chair, or the deputy chair when acting as chair, have a casting vote.
 - (10) That the committee have power to appoint subcommittees consisting of 3 or more of its members, and to refer to any such subcommittee any of the matters which the committee is empowered to examine.
 - (11) That the committee and any subcommittee have power to send for and examine persons and documents, to move from place to place, to sit in public or in private, notwithstanding any prorogation of the Parliament or dissolution of the House of Representatives, and have leave to report from time to time its proceedings and the evidence taken and such interim recommendations as it may deem fit.

- (12) That the committee be provided with all necessary staff, facilities and resources and be empowered to appoint persons with specialist knowledge for the purposes of the committee with the approval of the President.
- (13) That the committee be empowered to print from day to day such papers and evidence as may be ordered by it, and a daily Hansard be published of such proceedings as take place in public.