

Minority Report – Government Senators

The National Broadband Network will connect all Australians, wherever they live, to each other and to the rest of the world and will allow a plethora of new services and opportunities. Government Senators share this vision for the NBN:

We can build a comprehensive national broadband network... A broad range of services and applications would flourish on this platform. There would be entertainment options much richer than we have today. Two-way and multi-party videoconferencing would be commonplace. With broadband in every home, new services would spring up: banking, shopping, information. Educational and health services would expand to take advantage of this new, widely available communications channel...¹

Equally importantly, there would be a continuing ferment of innovation. With multiple service providers able to deliver services over the new network, there would be new ideas emerging all the time, including many attractive choices which are not available today.

Regrettably the view of the same writer that 'Amid the fierce disagreement on most other issues, one assumption seems to be accepted on all sides: building a better broadband network would bring great benefits to Australia'² does not appear to be held by Opposition Senators and so their principal recommendation – that the NBN be abandoned – is opposed by Government Senators and motivates the preparation of this dissenting report.

Opposition Senators say there are better ways to provide fast broadband for lower cost; namely by working co-operatively with industry (para 2.12). Government Senators know, however, that such faith/market-based approaches have not worked in Australia in the past given the current industry structure.

Government Senators support the intention that the National Broadband Network serve 100% of the population and that it operate on a wholesale, open access basis. Government Senators do not consider that that the market will deliver such an outcome.

Government Senators note the remarks of Mr Kevin Morgan who observes that around the world, fibre networks are being rolled out by vertically integrated incumbents and that this is the only workable model. Unsaid in Mr Morgan's considerations is that these incumbents cherry pick the most valuable customers leaving much of the rest of these countries with non-fibre solutions. Also unsaid is that these networks tend to be closed with the only retail offerings being those of the network owner. The availability of other service offerings depends on the existence of

1 Paul Fletcher, *Wired Brown Land* (2009), p. 208.

2 Paul Fletcher, *Wired Brown Land* (2009), p. 161.

other facilities or on the legislated opening up of access which, as we see in Australia, vertically integrated companies have a strong incentive to resist.

Government Senators therefore consider that the government's approach will deliver better outcomes for all Australians.

Opposition Senators display a perplexing inconsistency in their backward looking view of this nation building initiative.

They say they don't want an FTTH network yet they recognise it as a superior technology. They say that the NBN is no good for the mainland – and that they'll abandon it - but it's good for Tasmania. They complain that they can see little progress yet they take every opportunity to obstruct the roll-out of the network. They say they cannot judge the merits of the NBN before they see the Implementation Study; yet they declared that they will abandon it before the Study was released. They said they could not consider any NBN-related legislation before seeing the Implementation Study but they announce that they will not pass anything anyway. And they say the NBN costs too much but they recommend measures that will make it more costly.

Remarkably, a recurring theme in the report of Opposition Senators is there is little transparency. However, the evidence is there that the Government has consulted openly at each step of the way. It released a discussion paper on 7 April 2009, the day it announced its FTTH initiative. It has established a stakeholder reference group to provide a forum for discussion for its 'fibre-in-greenfields' policy initiative and published a position paper on the details of the legislation. It has released discussion drafts of the NBN Companies Bill and the NBN Access Bill prior to their introduction. It released the Implementation Study, announcing that it would do so less than three weeks after receiving it on 5 March 2010. It has invited the public to express their views on the Study and will publish its response soon.

Similarly, NBN Co has issued discussion papers on network technologies and service offerings and has taken and responded to submissions. Officers from the company speak regularly at forums around the country and have attended and provided frank answers to this committee.

Compare this with the record of the previous coalition Government. To take just one example it allowed only one day for a Senate committee to consider the legislation for the final sale of the Commonwealth's share in Telstra.

Implementation Study

Opposition Senators contrive to attempt to undermine the Implementation Study with their over-played refrain that it did not undertake a cost-benefit analysis seemingly oblivious to the chorus of support from witnesses to whom the benefits are obvious. For instance, all of the councils where the NBN's first release sites are located indicated that they were pleased to hear of their selection.

Mr David Lynch, a senior executive at Townsville Council was pleased to hear the announcement that Mundingburra and Aitkenvale were to be first release sites.³ Mr Bryan Whittaker, Engineering Director for the Municipality of Kiama, was 'delighted' to be included in the trial. Mr Brian Hales, from the City of Onkaparinga spelled out why he was 'thrilled' with the announcement that Willunga was one of the first cabs off the rank for NBN Co, outlining how the city's economic development board had placed broadband at the top of the list of urgent priorities to revitalise the region following the loss of the Mitsubishi engine plant and the Mobil oil refinery.

Similarly, the evidence of the Northern Territory Government was entirely positive about the building of a backhaul link to Darwin as part of the Government's Regional Backbone Blackspots Program. This was described in its submission to the Committee as 'a significant step forward in meeting the [Northern Territory Government's] communications goals for the future'.

The Implementation Study confirms that the NBN is achievable, will generate affordable prices for consumers and can be built on a financially viable basis even without a deal with Telstra. The study shows that taxpayers will receive a return on their investment sufficient to cover its cost of funds.

The Study models an entry level wholesale price on fibre for a 20Mbps service of \$25-30 with an extra \$5 for a voice service.⁴

The Study has been widely applauded. Optus CEO Paul O'Sullivan, said:

Today represents a major win for competition, with Australia one key step closer to a nationwide, 21st Century wholesale-only open access broadband network we so desperately need.

With the release of the NBN Implementation Study, we are now on a path to building a world class broadband network, a network that will ensure Australia's place in the leading economies of the world.

Alan Asher, the CEO of leading consumer body ACCAN, said:

What Australians need from the NBN is improved accessibility, affordability and availability of communications services and the study's findings support this becoming a reality.

Leading telecommunications analyst and commentator, Paul Budde observed that:

So far all elements of the broadband plan have moved forwards in a positive way and as such the project remains well and truly on the rails, so there is a very good chance that Australia can pull this off the ground.
(Budde Blog)

3 Page 33, Opposition report.

4 McKinsey-KPMG, *Implementation Study for the National Broadband Network*, 5 March 2010, Exhibit 4 46, p.268.

and

What everybody wants is a low wholesale price so they can build on top of that network innovative new products at an affordable price. The wholesale price [that NBN Co] revealed today makes it possible that, for example, you get a broadband service 10 times faster than what most people have now plus a telephone service bundled together for \$50 or \$60 as a retail price.

Philip Cronin, the managing director of Intel Corporations, said 'This is the utility of the 21st Century and is as important to our future economy as transport infrastructure is today.' 'The NBN has the potential to deliver significant long term benefits to consumers and small businesses alike.'

The Government is now inviting key stakeholders and the general public to provide their views on the Implementation Study before final decisions are made. This process will provide an opportunity for the Government to consider some of the matters raised by Opposition Senators in their alternative recommendations.

Concluding remarks

Despite their strained efforts to find fault in the Government's NBN initiative, some of the Opposition Senators' recommendations are not entirely without merit and touch on subjects that are already receiving consideration, for example, the need for an appropriately skilled workforce – the subject of recommendation 25 and 26.

Given the evidence unequivocally shows that the National Broadband Network will connect all Australians, wherever they live, to each other and to the rest of the world thus closing the digital divide and creating a range of new social and economic opportunities, particularly in areas outside cities that are hungry for reliable, affordable high broadband, Government Senators are dismayed that the primary recommendation is to abandon the NBN.

This short-sightedness defies the previous nature of the broadband debate in Australia which has been around what industry structure and regulatory model will best deliver the most universal, highest bandwidth, affordable network to serve Australia's future needs. With the Opposition Senators now opposing the NBN, this is no longer the case.

Government Senators recommend that the NBN proceed forthwith.

Senator Kate Lundy

Senator Glenn Sterle