

Additional Comments – Australian Greens

As with the Select Committee's previous reports, the 4th report concentrates a range of informed commentary on the proposed National Broadband Network (NBN) and hence is a valuable resource. The Australian Greens agree with many of the majority's recommendations. However, our views diverge at a number of important points, including from the general tone of outraged hostility that infuses much of the majority's commentary. The following discussion takes the majority's recommendations as a convenient starting point for detailing our views.

The Australian Greens do not agree with the majority that the absence of a cost-benefit analysis alone justifies abandoning the NBN. As we remarked in the committee's third interim report, a cost-benefit analysis would certainly be useful, especially on specific, concrete aspects of the NBN proposal where such an analysis would be more meaningful (such as aerial vs underground cabling). However, a cost-benefit analysis for the project as a whole would be a far more speculative endeavour than the majority suggests and would not result in a clear and incontestable conclusion with regard to whether the NBN should proceed. Such an analysis would need to anticipate and evaluate the range of uses that will be enabled by a nationwide high speed network over the course of its lifetime and their economic and social impacts, and then pit those against the likely costs and impacts of not building the network, or building a different sort of network. Certainty will not be found through this kind of crystal ball gazing.

The difficulty in making these kinds of judgements also raises questions about analyses that seek to judge the worth of the NBN by focussing exclusively on its commercial prospects. Even if it is true that the NBN will not generate a return that is of commercial interest to the private sector, or will not repay taxpayers' investment within the various forecast timeframes, this does not mean that the project is worthless and should not be pursued. Such a conclusion is akin to arguing that transport infrastructure should not be built because it will not generate a profit for the Government. The reasons for making these kinds of public investments are found in the broader social and economic outcomes that they enable.

However, the majority's broader point that this project has been rushed ahead in the absence of adequate planning is well made. Commencing construction of the network *before* receiving the implementation study and finalising the broad range of important issues the Implementation Study raises is an obvious example of the Government's unduly hasty approach. This rush to implement has unnecessarily undermined confidence in the feasibility of the project, and has also resulted in the information vacuum that the majority refers to throughout their report. As is detailed in the majority report, the absence of adequate public information about the timing of the rollout, the costs for consumers (i.e. costs that are not wholly within the control of retailers, such as the potential connection fee mentioned in the final paragraphs of the majority report), the differences and advantages of high speed broadband, what it will mean in terms of new equipment and access to the private property of consumers, and

so on, has led to a flurry of inquiries to consumer organisations, local governments being unable to plan their activities and look for opportunities to combine works and share infrastructure (e.g. digging one trench for many purposes), and other avoidable outcomes.

Consequently, we endorse a number of the majority's recommendations concerning greater public dissemination of information to key stakeholders and the general public. Majority recommendations 3, 4, 10, 27 and 28 are all targeted at this information deficit from different angles, and we support those aspects of them.

We have no quarrel with recommendation 5 seeking clarification of NBN Co's position with respect to development consent and landowner consent requirements, however we would add that NBN Co should not be permitted to circumvent local control of planning or individuals' rights to control access to their own homes. To reduce the likelihood of opposition and costly delays to the NBN's rollout, we urge NBN Co to engage early with local government and consumers so that a cooperative approach can be agreed before the rollout is scheduled to begin in their area.

Majority recommendations 15–17 are aimed at mitigating the risks that NBN Co will no longer act in the interests of consumers once it has been privatised. As a private, profit-driven monopoly, it will have no incentive to continually upgrade its infrastructure and services, or to continue to service new premises in sparsely populated and therefore uneconomic areas, or to keep the public informed of its service performance. If privatisation is to proceed, regulation of the sort detailed in these recommendations will certainly be needed. The Implementation Study also suggests some important safeguards against consumer-unfriendly monopoly conduct, such as ensuring that there is strong competition at Layer 2 prior to privatisation. However, the Greens remain of the view that the only truly effective means of safeguarding against these risks is to keep this monopoly in public hands where it can be run exclusively for the benefit of end users. If we can not prevail on that point, then a far more detailed public discussion of the safeguards that must be implemented prior to privatisation will be necessary. We will have much more to say on this point if things proceed to that stage.

The Greens support recommendations 8, 19 and 20 on enhanced engagement with consumer groups. Unlike the majority, we have no problem with the following suggestion from ACCAN:

...board position should be deemed to be a person who represents the interests of end users. This would mirror arrangements at the Australian Competition and Consumer Commission and the Productivity Commission which define specific roles for people with expertise in consumer issues.¹

The majority rejected this suggestion on the grounds that it could give rise to a conflict between the board's fiduciary duty to shareholders and the interests of

1 ACCAN, *Submission 121*, p. 5.

consumers. To us, that simply highlights the problem with privatisation. We have no difficulty granting end users priority over shareholders.

Majority recommendations 25–26 seem sensible given the evidence submitted by the Communications and Information Technology Training (CITT). The media accounts of safety incidents in Tasmania appear to have been exaggerated, but given the potential safety risks and the workforce needs that CITT foresees, and the potential costs if rollout is delayed due to workforce shortages, planning ahead to ensure that there are sufficient skilled workers to efficiently handle the rollout is sensible.

Finally, we wish to draw attention once more to the careful management that will be required to manage the 'digital divide'. The majority drew attention to the Implementation Study's scaling back of the service that will be delivered by wireless and satellite to 7 per cent of the population. It now seems that they will have a dramatically poorer level of service. This is a concern, given the range of essential services that are expected to be delivered over the NBN, and the aspirations for greater engagement with Government online that have been outlined in the Government 2.0 project. It appears that the lower level of service that will be available via wireless and satellite is an unavoidable consequence of the technology at this time. However, this is no reason for complacency. To ensure the 7 per cent enjoy equitable social and political participation, Government must lay plans for complementary service delivery to compensate for the digital divide, as suggested by ACCAN,² and Government and NBN Co must always be on the lookout for an upgrade pathway to bring the 7 per cent back into the fold. This latter challenge is another area where consumers will be ill-served by a privatised NBN Co with a fiduciary duty to its shareholders to *not* upgrade services *especially* in remote areas where its investment will be poorly repaid.

The other aspect of the digital divide that requires further thought and planning is social. Some Australian households do not even have computers, and some have limited means to secure access to high speed broadband. Again, we wish to endorse ACCAN's thoughtful contribution on this point:

ACCAN sees a role for NBN Co in the delivery of basic, low-band width services, possibly in fulfillment of a USO obligation placed on the wholesaler. We envisage that NBN Co should have a duty to work with retailers to deliver specific services for low income consumers and other classes of consumers for whom the market alone may not deliver adequate or appropriate services. It may be necessary to expressly legislate for a class of access that is in fulfillment of a USO obligation.³

This is one good option for overcoming the social aspect of the digital divide. We are also well disposed toward Professor Gans' suggestion that a basic level of broadband access, sufficient to access essential Government services, be provided free to all, and

2 ACCAN, *Submission 121*, p. 4.

3 ACCAN, *Submission 121*, p. 6.

an income-tested subsidy be introduced to ensure that low income families can purchase basic computer equipment (see paragraphs 6.145 and 6.146 of the Committee's Third report). Doubtless, there are also other good suggestions. Further thought, consultation and planning on this point is required.

Senator Scott Ludlam