



12 September 2008

The Editor
Communications Day

Dear Sir,

The present debate about who is the nasty monopolist in the NBN debate is a great example of the Australian telecommunications industry once again getting lost in a fog of self-obsession.

The notion of licensing one operator which in turn competes with adjacent industries is so commonplace that it is not even an issue for other infrastructure and utility industries.

In transport, we licence and limit taxis, trains, trams and buses, all of which compete with each other and with private transport to some extent. Each of them satisfies market demand in some areas that the others cannot, and each of them competes for some customer journeys. All of them are regulated in recognition that they have market power at least in parts of the transport market. And we would not think twice about regulation to stop five different trams tracks being built in the middle of the street!

In gas and electricity, the two energy sources compete in some markets (e.g heating) and in others do not (lighting). In the areas where there is not substitutability between the two forms of energy, we regulate to create competitive retail markets by separating the monopoly deliver infrastructure from the sale of the actual product (gas or electricity) which then becomes a contestable market. In that way, electricity can compete with electricity for lighting and heating, as well as with gas for heating.

We regulate in this way because consumers buy services, not wires or empty pipes. When was the last time someone knocked at your door offering to sell you the opportunity to have a pipe buried in your front yard? Yet the owner of that pipe has a delivery monopoly that needs to be regulated to allow the contestable market for the service itself to flourish.

No one in their right mind would say that someone who wanted to enter the gas retail market should have to dig up everyone's street. It would be unnecessary, uneconomic as a business proposition, a waste of national wealth to duplicate the infrastructure, and probably lead to residents throwing a fit at the inconvenience and expense.

So why do we find it so novel that it should be proposed that there should be only one wireline telecommunications network providing competitive, regulated retail access to all comers?

As far as I am aware, no one is saying that there should not be a right to invest in separate, competing access technologies networks, be it cable, wireless, power line communications or carrier pigeon by anyone who believes the business case stacks up.

What people are saying, and what the CCC supports, is that predatory investment by the incumbent to duplicate one access technology should not be allowed. This is because such an investment would be motivated by a desire to protect existing revenue streams, and therefore does not have to be economically viable as a revenue and profit generating investment in itself. No one but the incumbent would have an incentive to make such an investment because anyone else doing this would go broke.

This is exactly what was allowed to happen when Telstra duplicated the Optus HFC cable in the 1990s. More than \$2 billion was eventually written off and we still have no effective competition between the networks. Surely, we have learnt that lesson!

Neither is it surprising that Simon Hackett of Internode says he does not know how this regulation should be implemented. Simon has a day job running a business. There are buildings full of people who have the job of designing these regulatory and licensing arrangements. They are collectively called governments!

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