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13 May, 2010

Senator the Honorable Ian Macdonald
Chairman
Senate Select Committee on the National Broadband Network
PO Box 6100
Parliament House
Canberra ACT 2600

Attention: Mr Stephen **Palethorpe** (stephen.palethorpe@aph.gov.au)

By email (broadband.sen@aph.gov.au) and post

Dear Senator Macdonald,

We deferred mailing our submission and waited until the Communications Minister released the \$25 million 500plus pages of the NBN study by KPMG/McKinsey on Thursday 6th May. We wanted to ensure our concise submission's contents were not made redundant by the contents of the report.

With so much expert analysis of the KPMG/McKinsey report published in the national press and electronic media instead of providing our own opinion we have decided to rely on the expert analysis as published in the Friday 7th and weekend editions of the four national newspapers.

By Tuesday 11th May the range of published opinions covered the spectrum of industry interests. The most telling was buried at the end of Michell Bingemann's article in "The Australian". It simply stated:

"Telstra said it was still digesting the contents of the [KPMG/McKinsey] report before it could make any comments on its future"

We feel at this stage it would be foolish to submit our tuppence worth to the Senate Committee until the Committee and ourselves have had time to fully analyse all the current opinions, particularly those of Telstra.

Based on the wide range of expert comments in the past week we formed the considered opinion that the KPMG/McKinsey report merely provided Senator Conroy - and the CEO of the NBN Co Limited - with the market research and related analysis (as it applied to the construction and funding of a national broadband network) that did not exist in the Department of Communications in early April 2007.

In April 2007 we wrote to the department requesting this level of independently-obtained information and analysis in order to compare our own in-house market research to substantiate a funding model for the discrete and fully-funded \$20billion capital city optic fibre to the home network application we submitted to the Communications Minister in late April 2007. This was a discrete value-added-service (VAS) network.

The Department of Communications did not have that level of market research. Nor did it exist in any commercial market research or ICT management consulting firm - including KPMG and McKinsey - during 2007. In late July 2007 Senator Conroy announced the ALP national broadband plan to:

- Take 50% equity in the broadband tender
- Construct a \$10billion national broadband network “because the commercial sector cannot afford to.”
- Fast-track the tender.

During 2008 the market information at this level did not exist to allow the NBN Tender Evaluation Committee to evaluate if any bidder for the \$9.4billion (\$4.7billion x 2) RFT for the NBN could meet the “not negotiable because it’s an election promise” requirement of Senator Conroy for a “98% national broadband access via fibre optic cable” for the sum of money the respondents to the RFT committed to invest in order to construct and manage the NBN.

Nonetheless the information in the KPMG/McKinsey report is based upon or mirrors what was known in the first quarter of 2007 by both Telstra and Phillip J Moodie & Associates. This is why Telstra CEO Sol Trujillo publicly disputed the conditions applying to the 2007 Broadband Evaluation (conducted by Senator Coonan on an “invitation only” basis). If instead Senator Coonan had released a tender in the well accepted manner of the federal government acquisition and approval process then if Telstra did not accept the conditions of the RFT it could simply have submitted a “no bid” response. The department ultimately resolved the situation by having a Task Force re-assess Senator Coonan’s strategy. The outcome was to simply follow decades of standard federal government practice and announce a tender for the national broadband to be released in December 2007, valued at \$8billion - \$10billion.

This is exactly what Senator Conroy suggested in late July 2007 when he announced his version of the tender for the national broadband network at the Labor Party Broadband Taskforce Forum. It was just following standard government practice.

Both tenders had a value in the range of \$8billion to \$10billion. Both were scheduled for release in December 2007. Senator Conroy announced the NBN tender “will be in contract by April [2008]”. Neither tender had a requirement at any time for “98% national broadband access via fibre optic cable” because in 2007 no-one in the Department of Communications knew the cost, or even the estimated cost, of meeting that requirement. The requirement for 98% access was a pure flight of grandstanding political fancy on the part of Senator Conroy.

But in July 2007 Senator Conroy did know the cost of providing a national optic fibre to the home broadband service. During question time at the Labor Party Broadband Taskforce Forum he was asked what he would say if he was told there was “a \$20billion FTTH broadband application for a capital city network sitting on the Communication Minister’s desk.”

Senator Conroy (who had introduced himself as an Economist) roared with laughter and told the audience of Labor Party dignitaries, union officials, well known lobbyists, journalists and at least one major carrier’s CEO that:

- “It will never happen”
- “It’s one of the fantasies that has come out of Senator Coonan’s tender”
- “The country could never afford it.”
- “It would cost \$35billion. 40billion. \$45billion.”

At that time Senator Conroy claimed to be in regular contact with the CEOs of all major telecommunication carriers. All the carrier CEOs knew it was Phillip J Moodie & Associates’ fully funded \$20billion capital city optic fibre to the home broadband application “sitting on the Communication Minister’s desk.” They all knew because we had written and told them. Obviously the carrier CEOs assumed Senator Conroy also knew. But we hadn’t told him, and neither had any of the carrier CEOs or CEOs of major ICT vendors.

So when did Senator Conroy change his opinion on FTTH broadband for the NBN?

In July 2007 he said the above. Yet on April 7th 2009 he and the Prime Minister announced a \$43billion FTTH NBN.

On March 31st 2009, after patiently waiting for the FTTN tender process milestones to tick down to the stage where a final date was publicly declared for the winner to be announced, we sent a letter drafted in January 2009 to Senator Conroy with the intention of having the NBN tender cancelled and recalled to include us and to also give Telstra a second bite at the cherry. Instead, on the morning of April 7th on which the Australian Financial Review confidently predicted the winner, the tender was instead cancelled and the Prime Minister announced the \$43billion FTTH project.

On Sunday 9th May 2010 I listened to Senator Conroy being interviewed on ABC TV “Inside Business”. I threw our Senate Committee submission into the bin.

Senator Conroy is now talking about an entirely different NBN to the one that exists in our market research files. The breaking point was when Senator Conroy said with a perfectly straight face that the KPMG/McKinsey study was commissioned on the basis of Telstra not being involved in construction of the NBN and that “We’ve always believed this was always a viable position.”

When did Senator Conroy publicly state at any time between July 2007 and April 7th 2009 that he believed (let alone could substantiate) that a national FTTH broadband network in any form was viable?

When during this time did Senator Conroy substantiate that it was viable to construct any form of NBN without the involvement of Telstra?

Although our original Senate Committee Submission is in the bin we will make a submission as our prime concern for the NBN lays not in the government’s 51%, but in the remaining 49% of the NBN.

The 49% was supposed to be available for commercial/carrier participation but it now appears to be shelved for at least 5 years. Senator Conroy now appears of the view that the KPMG/McKinsey study is a full NBN business plan – the plan that has never previously been documented since Senator Conroy first announced it in mid-2007. The \$10billion; \$20billion; \$30billion; think of a number, there’s no need to substantiate it! tender was the largest single tender debacle in living memory. And it has subsequently taken a year to attempt substantiation of the Prime Minister’s \$43billion NBN. It appears to us that the \$43billion NBN did not exist until March 31st 2009 when the Minister received our substantiation of why Phillip J Moodie & Associates should be invited to submit a late bid for the FTTN tender.

Yours faithfully,

Phillip Moodie
Principal

Encl.