Department of Industry and Resources
Government of Western Australia

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Committee Secretary
Senate Standing Committee on Environment, Communications and the Arts
Department of the Senate
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Committee Secretary

INQUIRY INTO THE *TELECOMMUNICATIONS LEGISLATION AMENDMENT (NATIONAL BROADBAND NETWORK) BILL 2008*

Thank you for the opportunity to comment on the above inquiry.

The Department of Industry and Resources broadly supports the thrust and direction of the Bill in so far as it provides the Federal Government with the capacity to obtain telecommunications network information to assist proponents to develop a fibre to the node (FTTN) network architecture and costing. I understand that to date, a number of telecommunications companies have agreed in principle to release network information although some have indicated that they would not voluntarily provide the information on the grounds of commercial sensitivity.

The Department is of the view that the release of network information is critical to the development of the National Broadband Network (NBN) infrastructure and to also ensure a fair and competitive tender process. The structure of the telecommunications sector in Australia and its dominance by the current incumbent means that knowledge of its own network, may place other tenderers at a competitive disadvantage if information required to prepare a properly scoped and costed bid is not also made available to them.

Moreover, Western Australia has previously stated its position to the Federal Government that the NBN should not just focus on a last mile solution but also seek to address the issue of competitive regional backhaul. In response we are advised that in tendering for the NBN, there is nothing to prevent other telecommunications companies from including the use of Telstra's current backhaul network, as part of their own NBN proposals. However, in order for other companies to do this they will require the physical attributes of the backhaul network, its layout as well as details of unused capacity.

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The provision of network information is essential to the presentation of robust bids that could address the regional peculiarities of each State/Territory.

I also note that the definition of "entrusted public officials" does not include State and Territory Government officers. Consideration should be given to broadening the definition so that State and Territory officers, under certain restrictions, could be provided with network information. For example, where State/Territory initiatives or programs align with and/or augment the National Broadband Network and its RFP process.

The Department is currently preparing a tender for a StateWide Broadband Network (SBN) (refer to attached submission to NBN Panel of Experts for further information of the SBN initiative) and we are of the view that there are important synergies between the SBN and the NBN. The release of network information would serve as an important adjunct for our own planning and development purposes and may assist to optimise the scale of the NBN.

Yours sincerely

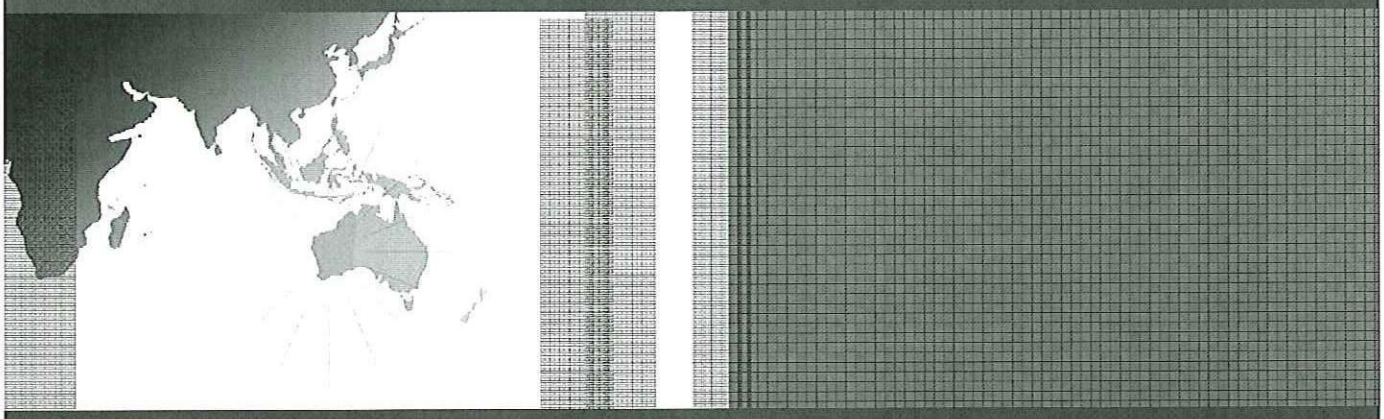
Stuart Smith
A/DIRECTOR GENERAL

15 April 2008

Att.

27 March 2008

National Broadband Network Submission - Panel of Experts



Government of Western Australia

INTRODUCTION

Like the Federal Labor Government, the Western Australian Government sees broadband as necessary to boost productivity growth and build long-term economic prosperity. The State Government has been proactive in taking a long-term strategic approach to the provision of telecommunications services, the most recent initiative being the StateWide Broadband Network (SBN). The goals of this project align with those of the National Broadband Network (NBN), and the State considers that the two projects are synergistic. This submission provides information for the Expert Panel on the Western Australian initiative and comments that should assist in the development of the Request for Proposals (RFP) documentation for the NBN project. A cooperative approach to achieve the best outcomes for the people and businesses of this State is sought.

WESTERN AUSTRALIA'S POLICY POSITION

In October 2004, the Western Australian Government released *WA – A Connected Community: State Communications Policy*[1]. This policy outlined the government's vision that Western Australians will have access to functional and affordable communications services, thereby allowing them to fully participate in the opportunities available. It marked a public commitment by the State Government to use the levers it has – such as the use of its purchasing power, its planning powers and its assets – to achieve the vision. Regional areas and other sectors of the community that may not gain access to appropriate communications services through normal market forces were identified for particular attention.

The State considers that regulatory and funding responsibility remains with the Commonwealth. Likewise, the State Government has no desire or intention to become an owner or operator of telecommunications infrastructure. It will, however, utilise its ability to influence the future development of broadband services in this State by being the anchor tenant for a whole of government service which should encourage the delivery of improved broadband services for the State as a whole.

THE WESTERN AUSTRALIAN COMMUNICATIONS MARKET

A key issue for Western Australia is its almost complete reliance on Telstra as its backhaul provider, particularly in regional areas, with its ownership of the major fibre backhaul routes.

Within the Perth Central Business District, a number of companies offer fibre backhaul capacity, and competition is strong. Some companies – Silk (Bright), Amcom and Telstra – have fibre rings or tails into key urban areas and thus competition exists in these areas. Outer metropolitan areas are serviced by Telstra, or by other companies using a microwave backhaul as they are unable to access affordable fibre backhaul.

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[1] (2004) www.doir.wa.gov.au/scp

There are five interstate fibre cables: three owned by Telstra, one by Optus and the fifth by NextGen. The Optus cable enters Western Australia via Norseman and then loops through the South West (close to Katanning and through Bunbury). It does not, however, have any breakouts (access points) apart from the termination point in Perth. The NextGen fibre follows the interstate railway through Kalgoorlie to Perth. There is a single breakout point in Kalgoorlie. Consequently, the only fibre backhaul access that is currently available outside of the metropolitan area, apart from access to the NextGen fibre in Kalgoorlie, is on Telstra's intra-State routes.

The State Government understands that there is a significant cost imposed on the WA community for the delivery of services in remote areas in particular. Sample wholesale pricing to industry, demonstrating the actual prices in place in areas where there is no competition, include:

- Around Sydney: $250 per month per Mbps;
- Around Perth (where there is competition): $350 per month per Mbps;
- Sydney to Perth (on NextGen fibre) $350 per month per Mbps;
- Perth to Bunbury: $800-900 per month per Mbps (2.5 times the interstate or metropolitan price); and
- Perth to Port Hedland $2,500 per month per Mbps (over 7 times the interstate or metropolitan price).

STATEWIDE BROADBAND NETWORK (SBN) STRATEGY

In November 2006, Premier Carpenter announced the StateWide Broadband Network (SBN) Strategy. The aim of this strategy is to deliver a high-speed, competitively priced, integrated telecommunications service that supports the widespread delivery of fixed voice, data, video, mobile, internet, satellite and other converged and emerging services. The SBN is expected to provide a single comprehensive suite of services to all Western Australian Government agency offices; this service will also be available to Government Trading Enterprises (GTEs), industry, local government, Commonwealth government agencies and the community. The project is to achieve value-for-money solutions for government, and is to have flow on benefits to business and community.

The objectives of the StateWide Broadband Network strategy are:

- make available a minimum 10 Mbps service at each of the approximately 2,300 government offices throughout the State. These are located in 236 towns and 242 metropolitan locations;
- provide for scalability and upgradeability for future demand for broadband services from government offices;
- the cost of network bandwidth for all State Government agencies, at any facility, to be the same. The Request will specify a preference for distance independent pricing for Government agencies. This is expected to move closer to unified pricing

without artificially distorting the market and the problems that brings;

- enable and encourage convergence to a common Internet protocol (IP) platform, enabling voice over IP, radio over IP, and greater ease of communications within and between agencies; and
- provide for affordable open access, enabling last mile providers to have wholesale access to competitively priced backhaul, with the intention of putting downward pressure on prices for businesses and households, and stimulating improved (faster) broadband services and greater coverage through improved competition.

The SBN strategy is predicated on the State Government offering its telecommunications spend as anchor tenant to underpin the business case of the supplier and to reduce the risks for any new entrant or builder of infrastructure. To ensure a value for money outcome, an open tender process is required.

ALIGNMENT WITH NATIONAL BROADBAND NETWORK STRATEGY

There are a number of key similarities between the State and Federal initiatives:

- high speeds (minimum 10 Mbps State, 12 Mbps Commonwealth)
- open access
- price equivalence
- encourages competition, and
- require private ownership and operation (although the Commonwealth may be an equity partner).

There are also some key variations.

- The SBN focuses on the services to be delivered, with some sites having immediate delivery of a 100 Mbps symmetric service. The sites and services required will be specified in the RFP. The technical design specifications for the network to deliver these services will be left to the respondents, with some prescriptive minimum standards.
- The NBN focuses on a last mile solution (FTTN with a view to FTTP in the longer term); the SBN focuses on addressing the backhaul issues, and making this available to other operators under reasonable conditions to allow the delivery of last-mile services. The SBN is technologically neutral on the last mile solution.
- The State Government understands that the key target of the NBN is the residential and small business customer, while the SBN targets customers requiring high speed, symmetric, guaranteed quality of service broadband – particularly government and business – with residential customers serviced through the last mile providers.

Currently, any potential provider of FTTN in Western Australia outside the metropolitan area is reliant on Telstra's backhaul. There are both capacity and pricing issues, as previously discussed, that will impact on service delivery.

Telstra has advised that some of the existing backhaul does not have the capacity to support the State Government's broadband supply demands and will need to be augmented. With *A Broadband Future for Australia – Building a National Broadband Network* promising 12 Mbps to each household, this will place even greater demands than the SBN on existing backhaul. In some areas these demands will not be met without the construction of increased backhaul capacity.

The cost of backhaul in Western Australia has been highlighted earlier in this paper. If these wholesale backhaul rates persist, the FTTN retail broadband offerings are likely to be financially out of reach for many in regional areas with a consequential negative impact upon the business case of the supplier.

Similarly, a national solution that might only deliver FTTN to the Perth-Mandurah corridor is not an outcome that will achieve the goals of the Western Australian Government. High speed broadband should be available to the population outside the greater metropolitan area.

The Western Australian Government is of the view that competitive regional backhaul is needed in this State to deliver on the promise of a 12 Mbps service to 98% of the population. The Western Australian Government will appreciate being advised if the Commonwealth is of the opinion that the National Broadband Network will deliver this without State intervention.

STATE-BASED SOLUTIONS

Given the variation in the current competitive environment, access to alternative backhaul and various State Government initiatives, a solution on a State by State basis may deliver better outcomes than a national solution with the NBN going to a single provider.

The Request for Proposal (RFP) should be constructed in such a way that valid (conforming) bids can be submitted by suppliers focusing on a particular geographical region. A State/Territory could be the natural division as this then aligns with other initiatives. The State is of the view that a whole-of-nation bid should not override solutions which provide better value for money outcomes on a State basis. National bids should be required to be costed at a State level so that effective comparisons can be made.

COMPETITION

The State Government is of the view that the most effective way to achieve a truly competitive telecommunications market in Australia is structural separation, so that the infrastructure is owned and operated by a separate company that earns its revenue from selling capacity and services to as many different service providers as possible.

Without structural separation, infrastructure competition is necessary. This requires the installation of at least a second separately owned backhaul cable. As well as facilitating competition, it also provides for separate redundant links which become critical infrastructure in the event of a national disaster affecting communications.

State Governments have found that, where possible, duplicated infrastructure investment into regional areas to give a stronger wholesale choice of suppliers has proven more effective in driving down prices and improving services than wholesaling on a single piece of infrastructure.

The third approach – but one that can be combined with the above options – is to make open access a mandatory part of the agreement. The Federal policy, *A Broadband Future for Australia – Building a National Broadband Network,* states:

> "A pre-requisite for all proposals made under this process is that they submit to providing genuine open access to bottleneck fibre to the node infrastructure. Genuine open access would require:
>
> - Equivalence of access charges; and
> - Full scope for access seekers to differentiate their product offerings by allowing the customisation of access speeds, quality of services and contention ratios."

An effective open access regime needs to deal with both price and non-price issues. Barriers to entry can also take the form of delays in making decisions, for example, or the extended process that a company needs to go through before its application is determined. A process and arbitrator – and even an independent manager of the process – need to be established.

The open access provisions cannot be left to the contract negotiation stage before they are detailed as more than high level principles. It is important that the RFP includes a level of detail on the types of services that will be made available for open access and the conditions. Respondents should provide a statement of their agreement to these terms and their wholesale pricing for the various services. Changes in prices should be benchmarked to overseas jurisdictions, such as the OECD, to ensure that these are not increased disproportionately after two or three years.

If the NBN includes backhaul components, the open access must apply to this as well. Other last mile providers need to be able to readily access affordable backhaul (as a minimum, Layer 2 and 3 services) so alternative technology solutions can be provided to customers. These may be customers who want

symmetric services with high reliability and other quality of service requirements, such as government and large industry, or they may be domestic customers in areas outside the reach of the FTTN where a wireless solution is optimal.

There needs to be transparency in the open access conditions. All providers – whether a potential FTTN builder or another company that will provide services to the end customer on the network – need to see these and have the opportunity to have input. Consequently they need to be developed prior to the release of the RFP.

TECHNOLOGY ISSUES

Fibre to the Premises (FTTP) should be the ultimate goal. The node design should therefore be one which enables, rather than prevents or hinders, the extension of fibre from the nodes to the premises.

The nodes should allow for a variety of technological solutions and a range of options for last mile distribution. The access point to the network should be as close to the end customer as possible, and certainly no closer to metropolitan aggregation points than the existing exchanges.

The design of the network should not be aimed at reducing competition or stranding competitor's assets.

From a customer perspective, the network should be designed that so that the individual customer does not have to purchase all services – voice, data and television – from the same provider, thus encouraging greater competition at the service level. For example, someone wishing to buy Foxtel should not have to buy a broadband data service from the same company.

RFP PROCESS

If the SBN is seen as contributing to the delivery of the NBN, the Western Australian Government considers that it will assist in the optimising of that contribution if it has direct input into the development of the RFP. It would be helpful if there is a joint plan developed which facilitates the best outcomes. This plan should include clear definition of the deliverables from each jurisdictions' strategy and establish the roles of each government. The tender processes, including the timing of the various stages, will need to be considered to optimise the outcomes.

To progress this, a joint working group of Commonwealth and State officials should be established with clear agreed deliverables. The consultants employed to assist with the process should also have input, and should consult with the State to ensure that they are providing informed advice to the Expert Panel.

While possibly delaying the tender process slightly, the issuing of the RFP as a draft for industry comment – and possibly by other interested parties, including State Governments – will provide greater certainty to the Commonwealth that a viable solution is possible and will identify any weaknesses or points of confusion in the document before it is formally released to the market.

A proactive and cooperative approach is needed to ensure that the best outcomes are achieved for all. The expertise and experience of State Governments will contribute to the outcome.

SUMMARY

The key points to this submission are listed below for ease of reference.

- A competitive fibre backbone network is necessary to address the issues being experienced in Western Australia.
- The State Government wishes to be advised if the National Broadband Network is likely to deliver a backhaul solution for this State. It will then modify its strategy accordingly.
- If the Western Australian Government's StateWide Broadband Network Strategy is seen as contributing to the delivery of the Commonwealth's broadband policy, the State Government should play an active role in the development and implementation of the NBN in this State. Implicit in this is a cooperative approach to determining how both governments ensure value for money outcomes. This includes
    - working together to determine the complementary deliverables of each strategy;
    - jointly determining how the tender processes best fit together to deliver on agreed outcomes;
    - the State having direct input into the RFP development, through the consultants appointed to advise the Expert Panel and through an officer to officer working group;
    - designing the NBN RFP so it can deliver a last mile solution in this State that builds on the SBN;
    - allowing for State-based solutions, including different suppliers of the NBN in different jurisdictions;
    - ensuring that open access is transparent and deliverable in both (backhaul and last mile) contexts;
    - the State reviewing the draft RFP before finalisation; and
    - consulting with each other on a confidential basis during the tender evaluation process to facilitate the best joint outcomes.
- Competition is an important factor in achieving the desired outcome. This can be achieved through the full structural

separation or infrastructure-based competition. In Western Australia where only one regional town has alternative backhaul infrastructure, this issue must be addressed.

- Transparent and enforceable open access provisions must cover both price and non-price conditions. These need to be specified in the RFP, not left to the negotiation phase when considerable pressure will be exerted by the preferred tenderer and the timeline.

The Western Australian Government will welcome the opportunity to make a presentation to the Expert Panel on the StateWide Broadband Network and to answer any questions that the members of the panel may have.

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