

Appendix A: Likely Timing of NBN Fibre Roll-out to ACCC's ESA Footprint

- 1.1 In considering whether access seekers currently utilising regulated PSTN OA would make the investments required to participate in ULLS-based competition in the event of an exemption being granted, the ACCC must take into account the likely timing of the fibre roll-out relating to the National Broadband Network (NBN) in its proposed ESA footprint.
- 1.2 Optus considers the issue of the timing of the NBN deployment in this Appendix and concludes that, even on a conservative estimate, fibre infrastructure will be deployed in the majority of the ESAs within the ACCC's ESA Footprint by June 2010 if the FTTN operator is Telstra CiC. This timeframe allows insufficient time for access seekers to recover any investment in DSLAMs and associated infrastructure made as a result of the final decision.

Government objectives

- 1.3 The Federal Government intends to build a NBN, in partnership with the private sector, which will deliver a dedicated downlink transmission speed of at least 12 Megabits per second (Mbps) over each connection provided to a premises, using FTTN or FTTP architecture, and that will be available to 98 per cent of Australian homes and businesses. It has committed to provide funding of up to \$4.7 billion and to consider regulatory changes necessary to facilitate the deployment, over five years, of the NBN, and it has published a request for proposals to roll-out and operate the network.¹
- 1.4 It is not in question that the new fibre network will be rolled out in the ESAs in the ACCC's ESA footprint. The key question is when this will occur.
- 1.5 Proposals to roll-out and operate the new network are now due by 26 November 2008. The Federal Government will decide on its preferred FTTN operator after considering these proposals. Optus estimates that the Government will announce the preferred bidder by April 2009, which should allow adequate time for consideration of proposals. It is unlikely that the Government consideration will be prolonged, given the Government's public statements that it "want[s] to complete this project as fast as we can..."²
- 1.6 The Government has set an objective that the new NBN will be rolled out and made operational progressively over five years beginning once the Government decides on the preferred supplier (which it is likely to do by April 2009). That is the objective is that the network will be complete (able to serve 98% of the population) within five years. However the network is likely to be operational in many areas well within that timeframe.

Telstra's intentions

- 1.7 This section examines the situation if Telstra was the preferred supplier. Optus does not mean to imply that the NBN operator will necessarily be Telstra. However, we believe that the ACCC must consider the downside risks of its decision in this application – if only because access seekers will certainly be considering those risks in making investment decisions. And in terms of both the impact on competition and the possibility of stranded investment, those risks will be highest if the NBN operator is Telstra. So in this section

¹ DBCDE, April 2008, *Request for Proposals to Roll-Out and Operate a National Broadband Network for Australia*

² Australian, 3 September 2008, "Broadband plan in starter's hands". Full quote: "We want this to be a proper and transparent process," Senator Conroy said. "We also want to complete this project as fast as we can and we are progressing as fast as possible with the information that has been available."

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focuses on the possibility that the NBN operator is Telstra, in order to examine the greatest potential risks to competition from the ACCC's draft exemption decision, and the likely impact on access seekers' investment decisions.

- 1.8 Optus submits that the rollout of the NBN will most likely begin immediately after the announcement of preferred operator. With regard to beginning the FTTN rollout, Telstra has stated publicly that:³

“while its charges would be higher than G9's, Telstra has the infrastructure and finances in place for a very fast roll-out.”

“Telstra would be ready to start rolling out a high-speed fibre-optic broadband network within two weeks if the Federal Government and competition watchdog gave it the green light to proceed.”

- 1.9 Optus submits that the rollout of the NBN will most likely progress very rapidly – it must do so if the NBN operator is to meet the Government's timeframe, which requires cutover of approximately 70,000 nodes in 5 years (over 1,000 a month). Assuming there are approximately 40 nodes per exchange, then this means 25 exchanges will be fibred each month. On the timing of the FTTN rollout, Telstra has stated publicly that:⁴

“within 9 to 12 months [of receiving the necessary assurances from the Government] Telstra will begin switching on the first FTTN enabled exchanges. From 9 to 36 months Telstra will activate the FTTN network progressively as each exchange area is upgraded. We expect to complete up to 33% of exchange areas within the first 18 months and up to 67% within 36 months...”

- 1.10 As a conservative estimate Optus expects the first tranche of exchanges to be activated by early 2010. The relevant question for this inquiry, however, is: when is the rollout likely to have reached the ESAs within the ACCC's ESA Footprint? The answer to this question depends on which exchanges the FTTN operator is likely to target for early deployment and activation.

- 1.11 The question then becomes, is it likely that the ESAs within the ACCC's ESA Footprint would be among the first exchanges to be targeted for rollout? Optus submits that the answer is 'yes': the ESAs within the ACCC's ESA Footprint would most likely be among the first tranche of exchanges to be targeted for FTTN rollout – particularly if the FTTN operator is Telstra. There are three main reasons for this conclusion.

- 1.12 First, the number of ESAs within the ACCC's ESA Footprint (263) is relatively small, and at 25 exchange areas a month (as estimated above), it would take under a year for all of these exchanges to be fibred.

- 1.13 Second, the ESAs within the ACCC's ESA Footprint are demonstrably those most commercially attractive to telecommunications providers (they have been selected because of the size of the addressable market and the number of existing ULLS competitors). The ESAs will be most attractive to the FTTN operator for the same reason. The ACCC itself appears to have recognised the FTTN operator is likely to roll out selectively to exchanges where there is most competition: “encouraging transition to ULLS-based competition in particular ESAs... will be a key driver of this fibre deployment... fibre upgrades being realised in a more timely manner.”

³ ABC News, 7 June 2007, “Telstra 'ready to roll out' broadband plan”
<http://www.abc.net.au/news/stories/2007/06/07/1944591.htm>

⁴ Telstra, May 2007, Advertisement in major newspapers, Telstra has a broadband plan for Australia

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- 1.14 Third, ULLS-based competition, compared to resale competition, has a substantial negative impact on Telstra's profits (since wholesale prices are based on cost, rather than on what the market will bear). Thus Telstra has a strong incentive to eliminate ULLS-based competition as quickly as it can. If Telstra is the preferred supplier, it is likely to prioritise FTTN rollout to the ESAs where there is most ULLS-based competition: ie, the ESAs within the ACCC's ESA Footprint.
- 1.15 On this basis Optus concludes that fibre infrastructure will be rolled out to the majority of the ESAs within the ACCC's ESA Footprint by early 2010 – particularly if the FTTN operator is Telstra. This likelihood is crucial to the question of whether access seekers currently utilising regulated LCS and WLR would make the investments required to participate in ULLS-based competition in the event of an exemption being granted.
- 1.16 In this regard it is crucial to understand that the NBN, as a FTTN network, cannot be unbundled – at least not economically (as set out in Appendix C). Telstra has stated its intention to completely strand competitor DSLAM investment in exchanges. If Telstra is the NBN operator then, even on a conservative estimate, access seekers' investments in DSLAMs in all fibred exchanges will be unable to serve any customers and thus completely stranded by its network deployment – by June 2010. This timeframe allows only 6 months from the time the exemption is likely to come into effect for access seekers to recover any investment in DSLAMs and associated infrastructure made as a result of the final decision.
- 1.17 If Telstra is not selected as the Government's preferred bidder, then the NBN operator will not be subject to the anticompetitive incentives noted above (ie, that Telstra has a strong incentive to eliminate ULLS-based competition as quickly as it can). In that case the timeframe for deployment may differ. Even in considering this scenario, however, the ACCC must take a view on the likely timeframe for fibre deployment in the affected exchanges. CiC