

ATUG Opinion - Fibre to the Node plan

ATUG was disappointed that discussions between Telstra and the ACCC on the proposed Fibre to the Node plan have stopped. Public debate about this important topic would have been enhanced by public release of the proposal with issues as to pricing outlined.

The balance between returns for investors, affordable prices for end users and effective access arrangements for competitors is a tricky one – especially when the issue is new infrastructure, rather than legacy infrastructure.

As it turns out, at the core of the debate is a position long argued by Telstra that it does not receive sufficient funds from the USO to fund regional services without extensive cross subsidy from metropolitan areas.

Telstra's (Phil Burgess) briefing to analysts is at:

http://www.telstra.com.au/abouttelstra/investor/docs/tls442_fibretothenodetranscript.pdf

“These talks were not scuttled by disagreement over access. Even though early on we were opposed to competitive access for all kinds of reasons - our shareholders after all are building this facility and, as the Group of Nine is already showing, anybody can build it - the ACCC had a different view. They thought access should be part of a new regime, so early on we made a major concession to keep the talks moving. That concession was our agreement to decide to design an FTTN access regime that would provide competitive access on commercial terms that could be approved by the ACCC. We also agreed to design that service so that it provided competitors with access on terms equivalent to those available to Telstra's own retail unit. The result is our proposal for a high speed access service, we call it HAS, a summary of which will, as I said, be available later this afternoon on Now we are talking. (At <http://www.nowwearetalking.com.au/Home/Page.aspx?mid=173>) ...

So why did the talks fail? They failed because in our view we faced clashing world views on the issue of costs. We ran into trouble not on the principles related to funding high cost areas, but on the levels of funding required to deliver services to households and other premises outside the FTTN footprint, including people and communities in regional, rural and remote Australia as well as suburban areas outside the footprint.

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Let me just say a few words about funding high cost areas. Funding the high cost areas in rural and regional Australia was an issue from the outset ***because the high speed access service would have to generate revenues to fund cost not covered by the universal service obligation fund. We have been discussing this issue with the ACCC since late 2005.*** (ATUG emphasis added).

It is a long-standing policy of the Australian Government to protect the interests of telecommunications users in regional and rural Australia. In its current form that policy involves imposing on Telstra a range of obligations to supply services to those users to regulate quality standards at prices that are no higher than those we charge to consumers in the metropolitan area. We agree with that policy and we agree with the social compact that includes a national, uniform price.

It is a policy that seems to have the support of most Australians who believe that people in the bush should have the same access as people in the cities when it comes to telecommunications and that access should be at roughly the same price, but we also require that our shareholders be compensated for the costs that policy imposes on us.

The result of the shortfall between the low nationally average price and the cost, which exceeds the price in high cost areas, this shortfall has to be recovered from somewhere. As matters now stand, there are two sources for that recovery: One is the universal service obligation which most people know about and we can talk about more in detail. The other is through cost subsidies and both of those are part of the way that we maintain a national uniform price in this country.

The ACCC accepted the principle of a surcharge or a subsidy, but there was no meeting of the minds on the amount required. What the ACCC was willing to contemplate in terms of an amount would not have come close to covering the costs involved. In fact, in our discussions we centred in on costs that were as low as \$1.77 a month to costs that were as high as \$13.63 a month. Those are very difficult gaps to fill.....

So, when all is said and done, the problem you see is really not between Telstra and the ACCC; it is a conflict within the government between the policy making arms, the ministries and Parliament and the regulatory arm, the ACCC. The government needs to get its own policy house in order before there will be progress for all Australia on the FTTN talks. Until that happens, Telstra shareholders will be caught in the crossfire of conflicting policies and approaches inside the government, with the government and the ACCC wanting our shareholders to pay the costs of confused, conflicted and counterproductive telecommunications policies and regulations that discourage investment in new digital intra-structure. Because we will not let that happen, because we are going to protect our shareholders' investment, we have had an impasse. That, in a nutshell, is why we hit the wall on FTTN."

The Q&A session part of the briefing is at:

http://www.telstra.com.au/abouttelstra/investor/docs/tls443_fibretothenodeqatranscript.pdf

The Minister for Communications, IT and the Arts, Senator Coonan's response is at:

http://www.dcita.gov.au/newsroom/media_releases/government_disappointed_telstra_pulls_out_of_network_talks

"Telstra has consistently said publicly that there were very few issues left to be resolved, so to pull out of talks when the issue was so close to resolution is very disappointing, particularly as the company cited the ACCC's unwillingness to recognise the actual costs incurred by Telstra with its FTTN investment as the key reason for the breakdown," Senator Coonan said.

"The ACCC is required by law to take into account the costs of the investment and legitimate commercial interests of the infrastructure owner, including the incentives and risks for efficient investment in infrastructure when determining the competitive access prices.

"The ACCC has assured the Government that it is has always been prepared to consider fair and reasonable access terms, as required by law. It is therefore puzzling that Telstra has identified this issue as 'the major stumbling block'.

And the ACCC:

<http://www.accc.gov.au/content/index.phtml/itemId/757949/fromItemId/142>

"The Australian Competition and Consumer Commission is perplexed by today's announcement by Telstra that it has unilaterally decided to discontinue talks with the ACCC over Telstra's proposed fibre-to-the-node network upgrade, ACCC Chairman, Mr Graeme Samuel, said today.

"The ACCC last received documentation from Telstra on a FTTN access service and its pricing for this new service in late June, and was awaiting details on a transition plan for access seekers from current unconditioned local loop arrangements", he said.

"Given that Telstra only recently said that the discussions between it and the ACCC were '98 per cent' complete, the ACCC is perplexed that Telstra has now chosen to discontinue these discussions and withdraw its proposed fibre roll out.....

Mr Samuel said Telstra also claimed that it could not reach agreement with the ACCC on the extent of cross-subsidies to be provided by urban consumers to finance the cost of its services to rural and remote Australia.

"But at no stage in the discussions has Telstra ever proposed that its FTTN network would be rolled out to rural and remote Australia.

"Further, the ACCC does not agree with Telstra claims that there is an irreconcilable conflict between government policy on universal services and the ACCC's approach to access prices. In the ACCC's view, both are compatible with ensuring that Telstra's investment achieves a commercial return.

"Australians should be reassured that the ACCC, in accordance with government policy, is committed to safeguarding the rights of 20 million consumers, whilst providing reasonable regulatory outcomes for both investors and access seekers".

The ACCC's Annual Regulatory Conference held on 27th and 28th July provides a timely update from the OECD on where Australia stands with broadband an important context for the FTTN debate

One session of particular interest to ATUG was that by Dimitri Ypsilanti of the OECD "Benchmarking Australian Performance in telecommunications with specific reference to Broadband. The presentation highlights Australia's poor performance on availability (recent growth notwithstanding), speed, pricing and capping practices:

- Availability – Australia is significantly behind countries with similar population densities such as Norway, Canada and Sweden.
- Speeds - Australia is reported as behind New Zealand in terms of speeds on offers from the incumbent operator.

- Pricing – Australia compares at \$99.01 USD with 1.5MB, 10MB bit cap and 33 TV channels with the lowest prices of \$32.72 USD from Free Telecom in France for 20MB, no bit cap and 93 channels of TV

The OECD presentation is at:

<http://www.atug.com.au/other/OECDPresACCCConfJuly06.pdf>

The full program and presentations are at

<http://www.accc.gov.au/content/index.phtml/itemId/757243/fromItemId/3765>

The regulatory framework in Australia supports competition and consumer safeguards within a policy context of affordable access for all Australians. A number of decisions are relevant:

- The last discussion on Universal Service decided to confine its application to the standard telephone service and to continue industry wide funding.
- The last Price Control decision supported further price increases for line rentals (with offsetting reductions for call services) to recover the “access deficit”:
- The 2005 T3 legislative package put significant government funding in place for accelerated and extended regional services.

With all these pieces in place it is time for the focus to be on faster broadband for more Australians wherever they live and work. Broadband speeds and offers will be improved in Australia through effective competition, innovation and investment and Government funding to support regional developments.