



RESPONSE TO THE ACCC DISCUSSION PAPER ON POINTS OF
INTERCONNECT TO THE NATIONAL BROADBAND NETWORK

Tuesday, 9 November 2010

Introduction

FOXTEL welcomes the opportunity to respond to the ACCC's consultation on the National Broadband Network Points of Interconnect. As a subscription television operator, we bring a different perspective to that of most communications operators, in that our service offering is primarily multichannel entertainment. We do offer services connected via the internet, such as FOXTEL OnDemand, but currently traffic for such services is carried by ISPs independently.

FOXTEL's Interconnect Requirements

In assessing the interconnect options outlined in the ACCC's consultation paper FOXTEL has had regard to its potential requirements for access to any future network.

FOXTEL would require the following:

- **Access at centralised POI** – FOXTEL currently connects into the Telstra HFC network at multiple points at major capital cities. If FOXTEL were ever to take services from NBN Co FOXTEL would continue to require access to centralised POIs in capital cities.
- **Distributed POIs for localised content** – FOXTEL believes that into the future localised content, including for example localised insertion of advertisements, will likely become increasingly important. FOXTEL could, for instance, use its satellite network to provide 'localised content' direct to POIs outside of Australia's major capital cities

In addition to these considerations FOXTEL, as a large owner of infrastructure and an extensive user of satellite and cable distribution networks, believes that it is critically important that NBN Co have regard to existing infrastructure investments. FOXTEL would be concerned at any proposal from NBN Co that had the potential to strand large sunk infrastructure investments (in competitive markets), reduce incentives to invest and ultimately undermine competition.

Comments on the proposed approach by NBN Co

NBN Co has said that it favours a 'composite model' in which it offers interconnection at 14 interconnection points in the five mainland state capitals. Under this model NBN Co will sell both access and backhaul 'bundled' together at a uniform price. In addition to this, NBN Co has said that it may offer interconnection to 195 Connectivity Servicing Areas (CSAs) – at the same uniform access price as access to the main POIs. In light of the comments in the section above, FOXTEL makes the following comments on the NBN Co's proposal for interconnection points.

- **Support 14 interconnection points** - FOXTEL supports the concept of 14 interconnect points. This would allow – if FOXTEL utilized the NBN's network – FOXTEL to connect into the network in a broadly comparable manner to the way we connect to Telstra's HFC network today. Clearly, the price of access is also an important consideration – which FOXTEL understands will be the subject of a separate assessment by the ACCC.
- **Concerns with NBN Co's approach to regional POIs or CSAs** – FOXTEL has two significant concerns with the approach outlined to non-capital city POIs:

1. Uncertainty over terms of access – FOXTEL is concerned that NBN Co has been unclear about the terms under which access seekers could get access to non-capital city POIs. NBN Co says that the number of CSAs opened up for interconnection *will depend on the business rules and (be) subject to further consultation*. The paper is also vague as to the circumstances in which access seekers would get access to CSAs, saying only that access could be provided to CSAs *for technical reasons (ie applications which have low latency requirements) or (for) local content reasons (when a) connection is needed deeper in the network*. This approach does not give potential users of the National Broadband Network sufficient business certainty to plan to connect into CSAs.
2. National uniform pricing applied to CSAs – FOXTEL is concerned at the suggestion that the same national uniform pricing for major POIs (which bundles both backhaul and access pricing) will be used for access to CSAs. FOXTEL understands that this pricing methodology is the NBN Co's preferred approach as it says that backhaul and access pricing should be 'distance independent'. For instance, it says the access seeker *should face the same total wholesale cost from any premises to a designated state capital city point of presence*.

FOXTEL's concern with this approach is that it will effectively make it uneconomic to connect into any CSA. The reason for this is that under the NBN Co's model the price of connecting into a CSA, say, in Newcastle will be the same as connecting into one in Sydney's CBD. However, in the case of connecting into the Newcastle CSA the access seeker would also have to purchase backhaul (or in our case obtain additional satellite capacity). In such circumstances, it is difficult to see how it would be economic for the access seeker to connect into non-metropolitan points of interconnect. To make it economic for a company such as FOXTEL, we would need to have the capacity to obtain 'access' to the CSA at a price that is 'unbundled' from the backhaul cost of getting to the CSA. FOXTEL would not need NBN Co backhaul as we could use our satellite network to get any 'localised content' to the regional CSA.

- **Concerns with stranded investment and decreased incentives to invest**
FOXTEL is also concerned (as an infrastructure owner and holder of long term contracts with satellite and cable providers) that the approach outlined by NBN Co has the potential to strand backhaul investment, undermine incentives to invest and ultimately undermine competition. As a general principle, FOXTEL does not support Government investment that undermines private investment in competitive markets.

It is important, in our view, that in NBN Co's rush to implement competition in the supply of retail communications and telecommunications services, it does not undermine competition in the provision of a key input (i.e. backhaul).

Many of the issues raised in the ACCC's paper (in particular in its questions) go to detailed matters of telecommunications network design and interconnect models, and interconnect pricing. These are not matters in which FOXTEL has detailed expertise. However, in approaching the overall design and access models for the new network there are some critical factors that FOXTEL believes are fundamentally important – as is outlined above.

If you have any further questions on this submission call Adam Suckling on (02) 9813 7593 or Lynette Ireland on (02) 9813 7600.