

# ACCC WADSL SERVICE DECLARATION ENQUIRY – VOCUS SUBMISSION

As a strong advocate for competition as the best mechanism to achieve the optimal outcome for end users in the Australian telecommunications market Vocus Communications Limited (**Vocus**) welcomes the opportunity to voice its opinion on the important issue of the continued declaration of the Wholesale ADSL (**WADSL**) service.

The continued growth in subscriber take up and utilisation coupled with progressive advances in the technologies that provide access to high-speed broadband services is paramount to ensuring that Australia remains on the right trajectory for economic growth and productivity gains.

Successive governments in recent times have invested heavily via the National Broadband Network (**NBN**) and other Commonwealth funded programmes (e.g. Mobile Black Spots) to ensure that Australian consumers and businesses gain access to world-class competitive broadband services and thus by doing so achieve the resultant macro-economic benefits.

Vocus is mindful that there be no disruption to the competitive landscape for the supply of broadband services whilst the industry is in the process of migrating to the NBN and supports any moves by the Australian Competition and Consumer Commission (**the Commission**) in ensuring this outcome; otherwise Australia is likely to slip behind global competitors.

## Competition in the retail and wholesale markets and the LTIE test

Australia has enjoyed strong growth in broadband user connections for many years; however, penetration is still poor relative to international comparatives. At the same time Australia has also fallen behind global competitors in terms of average throughput.

Fixed broadband continues to be the dominant technology in terms of data downloads with strong year on year growth. The volume of data downloaded in December 2015 was 1.71 petabytes with fixed broadband connections amounting to 1.67 petabytes<sup>1</sup>.

Australia has slipped to a ranking of 25<sup>th</sup> in terms of fixed broadband penetration and per capita GDP, behind countries such as Korea, Japan and New Zealand and hence needs to improve its supply of high quality and cost effective broadband services. Refer to Figure 1.

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<sup>1</sup> Source: ABS 8153.0 - Internet Activity, Australia, December 2015

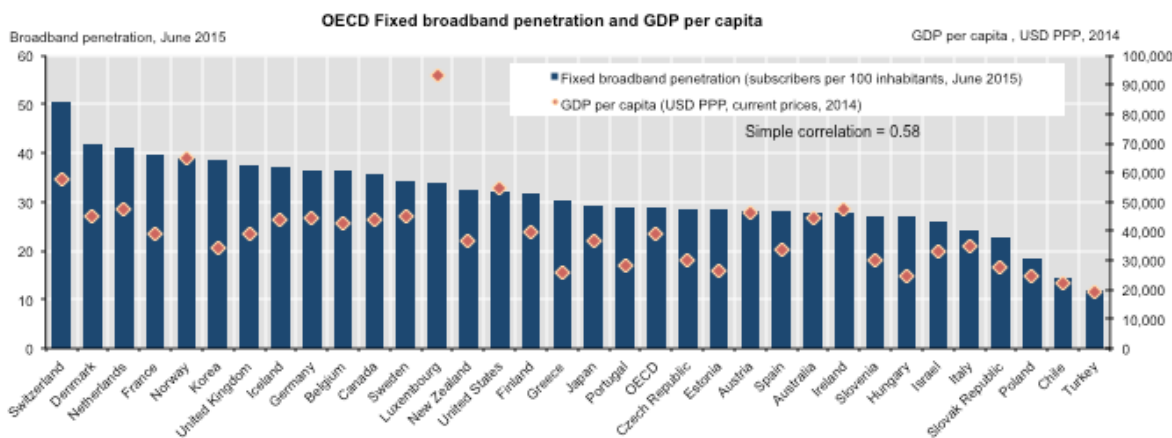


Figure 1 – OECD Fixed broadband penetration and GDP per capita<sup>2</sup>

As noted in the Commission’s discussion paper DSL still accounts for a large proportional share (circa 40%) of the approximately 12.5 million broadband connections in Australia. With fibre and HFC penetration for consumers still relatively modest, DSL is by far the access technology of choice for competitive fixed broadband providers. The tariffing and the data caps on mobile broadband services presently makes this access technology not a direct substitute for fixed services, however, this is set to change in future.

The Commission should look to both the wholesale and retail markets for DSL across the different geographical bands when applying the LTIE test. The health of a dynamic and competitive wholesale market will have direct bearing on the retail markets for broadband. This will be particularly acute in the regional and rural geographies (Bands 3 and 4), as evidenced by Telstra’s market share in those bands.

As the Commission would appreciate true competition comes from infrastructure-based suppliers who are able to leverage the differences in features, functionality and the cost of their infrastructures in order to give the end user choice.

The current competitive landscape for fixed broadband for the consumer and SME markets is centred on DSL as the primary access technology. Infrastructure based competition from competitive DSLAM’s falls away rapidly as you venture away from Band 2 metropolitan areas. Bands 3 and 4 are characterised by low tele-densities and high costs to deploy. These bands are virtually devoid of competition and hence are exposed to sub-optimal end-user outcomes.

Vocus contends that fixed broadband suppliers are reliant on access to a WADSL service from Telstra where a competitive offering is not available. Other technologies such as HFC are yet to be made available on a wholesale basis.

<sup>2</sup> Source: OECD, Broadband Portal, [www.oecd.org/sti/broadband/oecdbroadbandportal.htm](http://www.oecd.org/sti/broadband/oecdbroadbandportal.htm), February 2016.

Telstra has by far the greatest DSL footprint in the market, dominating rural and regional areas. It has the largest market share in both retail and wholesale markets and the greatest ability to cross-subsidise through bundling of services. This market share advantage has remained consistent over time.

The WADSL service remains the only real access option available to retail high speed broadband providers in the lead up to a full NBN deployment. If this service becomes unavailable or less attractive (through less favourable terms and conditions) to competing providers due to the revocation of the declaration we are likely to see an increased concentration in the market biased towards the incumbent.

### **Alignment of the Declaration Period and the NBN**

As the dominant future access infrastructure for consumer and small business the NBN should offer retail broadband providers a single regulated national wholesale network platform from which to provide services across a multi-technology mix (e.g. Fibre, HFC).

The issue with such a large infrastructure project as the NBN is the timing of such a deployment. The NBN is currently forecasting completion by 2020, absent of any known slippages. This means that there will be a mix of both legacy and NBN access technologies between now and the target completion of the NBN.

As the NBN will be progressively rolled out by servicing area, it is imperative that competitive broadband providers have the ability to access existing technologies such as DSL in order to conduct their normal business until such time as each NBN serving area is ready for use.

### **Importance of a subscriber base during migration to the NBN**

Telstra dominates the current market for the supply of fixed broadband services. Telstra's vertical and horizontal integration coupled with its legacy coverage and customer ownership advantage has entrenched its position in the fixed broadband market.

It is essential for LTIE that a healthy and vibrant market for the supply of high-speed broadband services exists. This can only be achieved through competitive supply via either infrastructure or wholesale-based options.

It is clear that the Commonwealth's intention with the NBN is to ensure that there is a level playing field for the competitive supply of high-speed broadband services.

It should be noted that in the process of migrating to the NBN it is advantageous to the broadband provider to acquire or retain as many subscribers as possible in order to maintain relative market shares. The general rule of thumb is that it is five times more expensive to win a new customer than

retain an existing customer. This proportion perhaps is even more pronounced during the early days of a full NBN deployment due to potential migration and customer acquisition uncertainties.

It is thus significantly advantageous for a supplier to enter the NBN migration process with as many customers secured as possible. A competitive high-speed broadband providers ability to secure customers will be directly relatable to the access options available to it.

## **Need for extension of Service Description**

Vocus submits that the prevailing conditions that led to the declaration of the WADSL service in 2012 remain in the market today. The incentive and the capability exists for the incumbent to favour its own retail business over wholesale customers should the price and non-price constraints associated with the declaration be removed from the WADSL service.

Effective infrastructure based competition remains limited to metropolitan areas only. Less populous areas such as regional and rural Australia are devoid of infrastructure competition. HFC is not available today as a wholesale offering and fibre has limited availability outside CBD/Inner Metro areas. Also as the Commission has pointed out a combination of a lack of economic returns and the transition to the NBN has meant that competitive providers are not investing in further DSLAM rollouts.

Hence the only fixed line option available to competitive high-speed broadband providers is to utilise the WADSL service to access the end user.

It is essential for the health of the market and thus ultimately in LTIE that the level of competition that exists today for the delivery of high-speed broadband services be maintained. To ensure this outcome the WADSL service declaration should be extended at least to the forecast completion date of the NBN of 2020. Ideally the declaration should be extended for a period of five years beyond the current expiry in order to cater for any slippage in the completion of the NBN rollout.

## **In Summary**

Vocus contends that the WADSL service is the prevailing fixed access option available to competitive suppliers of high-speed broadband services in the current market. Outside of metropolitan zones there is a distinct lack of infrastructure based competitive alternatives.

Competing technologies such as HFC are not available to competitive providers on a wholesale basis and hence cannot be considered currently as access alternatives.

It is essential in the lead up to the completion of the NBN rollout that there be no disruption to high-speed broadband competitor's ability to win or retain customers else they will be put at a significant disadvantage to the incumbent provider Telstra.

Vocus calls on the Commission to extend the declaration of the WADSL service beyond its current expiry of 13 February 2017 for a period of no less than five years. This period should be sufficient to cater for any slippage of the deployment of the NBN beyond its forecast date of 2020.

Vocus holds that the extension of the declaration will maintain the level of competition that exists in the market today for the supply of high-speed broadband services and that the extension should not unduly disadvantage Telstra.

## Contact

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