

EXTRACT FROM THE EVALUATION REPORT FOR THE REQUEST FOR PROPOSALS TO ROLL-OUT AND OPERATE A NATIONAL BROADBAND NETWORK FOR AUSTRALIA

1 OBSERVATIONS

1.1 Background

On 7 December 2007, the Minister for Broadband, Communications and the Digital Economy, Senator the Hon Stephen Conroy, (the Minister) announced that the Commonwealth Government (Commonwealth) was committed to building a national high-speed broadband fibre-to-the-node network, and that it would run an open and transparent process to determine who would build the network.

On 11 March 2008, the Minister announced the appointment of a Panel of Experts to assess the Proposals received in response to the Request for Proposals (RFP), to be released at a later date. The Panel of Experts comprises:

- Ms Patricia Scott (Chair)
- Mr John Wylie AM
- Mr Tony Shaw PSM
- Dr Ken Henry AC
- Mr Tony Mitchell
- Professor Reg Coutts
- Professor Rod Tucker

On 11 April 2008, the Commonwealth released an RFP seeking Proposals to roll-out and operate a National Broadband Network (NBN) in a single stage process. To facilitate the roll out, the Commonwealth indicated it would offer up to \$4.7b to the successful Proponent(s), and consider making necessary regulatory and legislative changes.

On 26 November 2008, the Commonwealth received Proposals from six pre-qualified Proponents:

- Acacia Australia Pty Ltd
- Axia Netmedia Corporation
- Optus Network Investments Pty Ltd
- the Crown in the Right of Tasmania
- Telstra Corporation Ltd
- TransACT Capital Communications Pty Ltd

On 13 December 2008, the Panel met and considered the future of the Telstra Proposal in the NBN RFP process. The Panel considered legal and probity advice and Telstra's response to the notification of the Panel's preliminary view on the matter and concluded that Telstra had failed to submit a Small and Medium Enterprise (SME) Plan as required under the RFP.

On this basis, the Panel and the Commonwealth concluded that the Telstra Proposal had not met the conditions of participation for the RFP and Telstra's Proposal was excluded from further consideration in the RFP process.

1.2 Observations

- 1 Since the Panel was appointed in March 2008, and the RFP issued in April 2008, the environment surrounding the process to select a Proponent to roll out and operate a NBN for Australia has changed dramatically.
- 2 There has been a once-in-75-year deterioration in capital markets that has severely restricted access to debt and equity funding. As a result all national proponents have either found it very difficult to raise the capital necessary to fund an NBN roll-out without recourse to substantial support from the Commonwealth or have withheld going to the market until they have certainty that their Proposal is acceptable to the Commonwealth.
- 3 All Proposals were to some extent underdeveloped. No Proposal, for example, provided a fully developed project plan. None of the national Proposals was sufficiently well developed to present a value-for-money outcome.
- 4 While no Proposal submitted a business case that supports the roll-out in five years of an NBN to 98 per cent of Australian homes and businesses with a Government contribution of \$4.7b, each Proposal contained attractive elements that, taken together, could form the basis from which a desirable outcome might be achieved.
- 5 The Proposals received through the RFP process, the public submissions received on regulatory issues and the report of the Australian Competition and Consumer Commission (ACCC) have been highly instructive. They provide a good evidence base for the Government as it moves forward.
- 6 The Proposals confirm there are multiple approaches to delivering high-speed broadband and that, with the right technology mix and incentives to create sound business cases being developed, the goal of providing high-speed broadband services to 98 per cent of homes and businesses can be reached.
- 7 In particular, the Proposals have demonstrated that the most appropriate, cost effective and efficient way to provide high-speed broadband services to the most remote 10 per cent of Australian homes and businesses is likely to be a combination of next generation wireless technology (supported by appropriate spectrum) and third generation satellites.
- 8 The Proposals have also demonstrated that rolling out a single fibre-to-the-node (FTTN) network is:
 - unlikely to provide an efficient upgrade path to fibre-to-the-premises (FTTP), because of the high costs of equipment associated with rolling out a FTTN network that would not be required for a FTTP network (i.e. FTTN is not a pre-requisite for the provision of FTTP); and
 - likely to require exclusive or near-exclusive access to Telstra's existing copper sub-loop customer access network (CAN), the so called 'last mile', thereby confirming that strong equivalence of access arrangements would be essential. As well, providing such access to a party other than Telstra runs a risk of liability to pay compensation to Telstra. The Proposals have this risk remaining with the Commonwealth but they have not addressed the potential cost to the Commonwealth of any such compensation. In any event, the Panel considers that no Proponent could accept the cost risk and continue to have a viable business case.

- 9 The Panel's analysis of the Proposals has highlighted the importance of competition and not just technology to drive improvements in services; the need to improve competition in backhaul supply, particularly in regional areas; the desirability for a wholesale-only provider of any bottleneck infrastructure; and the desirability of improved regulation of the telecommunications industry to provide investor certainty and speed of outcomes. The Panel was not attracted to what it saw in some cases as proposals for excessive overbuild protections. Focusing on using next-generation technology solutions may reduce the need for such protection.
- 10 The Panel can see a way forward to achieve the outcomes sought by the Government and has provided that advice in confidence to the Government because of the commercial sensitivities arising.

20 January 2009