Committee for Economic Development of Australia

The Australian broadband industry: a regulator's perspective

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Commissioner
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Introduction

Good afternoon. I'm Ed Willett, Commissioner, from the Australian Competition and Consumer Commission. It's my pleasure to be part of the launch of CEDA's research publication on Australia's Broadband Future.

The movement towards next generation networks is happening around the world. Competition, whether it be through shared access to an incumbent's network or inter-platform competition, has been instrumental in driving that change and the evolution has much to do with the strength of the competitive environment of each country. Development is occurring at different rates and, while each country has its own particular challenges, it is becoming apparent there are common issues arising worldwide.

Today, I will briefly outline the current broadband environment and its future with the roll-out of the proposed National Broadband Network.

However, I must note that the ACCC's role as advisor to the Australian Government's Expert Panel on the NBN and probity issues means that I will have to leave my observations fairly brief.

Regulatory and industry development in Australia

The lodgement of proposals last week as part of the Government's National Broadband Network process is the latest step in the development of Australian telecommunications markets in just over a decade since major competition reforms were introduced in 1997.

The original declared services included certain basic access services necessary for the carriage of inter-network voice and data calls over existing fixed and mobile networks. There were no access services, such as the unconditioned local loop service or the line sharing service, which allowed access to Telstra's copper network so other companies could provide broadband and/or voice services.

In 1998, only 16 per cent of Australian households had internet access – and as you'll recall, it wasn't broadband. Then in 2004, with the help of a Competition Notice against Telstra for an alleged price squeeze, the emergence of strong competition in broadband offers meant that by 2006-07, internet access had increased to 64 per cent of all Australian households – and

by then broadband internet services for households outstripped dial-up services by more than 2 to 1.[1] By June 2008 this ratio had increased again. Among broadband technologies, DSL remains the dominant access technology with almost 70 per cent of all non dial-up subscribers using DSL services. [2]

The provision of these DSL services has been encouraged by the availability of unbundled access to Telstra's copper network via ULLS and LSS. Currently, around a million unbundled lines are in operation. At last count, about 20 ISPs had invested in DSLAM/MSAN equipment to provide DSL services to consumers. Underlining this trend towards greater unbundled competition, the ACCC noted in a recent report[3] that there were 154 exchanges which contained 5 or more infrastructure providers.

The use of unbundled services has enabled carriers to provide a variety of downstream products and compete more vigorously for retail customers. The faster broadband speeds that arrived with the offering of ADSL2 plus services to consumers in certain areas is one outcome of the large-scale use of unbundled lines.

Some ISPs also appear to be widening their network coverage. For example, Macquarie Telecom recently announced an expansion of its business grade ADSL2 plus network to 214 new exchanges across the country – which is a six-fold increase on current numbers. EFTel has also recently announced plans to expand its footprint from 70 to 125 exchanges, and then to 200 exchanges and beyond, as soon as possible, so that it is capable of providing VDSL2, ADSL2 plus and PSTN services. These expansions suggest a confidence in the ability to obtain a commercial return on infrastructure investments, and follows Telstra's decision earlier this year to 'flick the switch' on ADSL2 plus services in 900 additional exchanges.

Another development in Australia, as in international markets, is that wireless broadband has become increasingly popular. The number of wireless broadband users in Australia increased 90% between December 2007 and June 2008.[4] And one of the factors contributing to this growth, is the use of wireless broadband services on mobile phones. This is why the investment plans of the major mobile providers continue to focus on improving coverage and speed of their networks.

Australia now has four mobile network operators who provide, either directly or via wholesalers, some 21.3 million mobile services to Australian consumers and businesses. By contrast, in 1997, there were three licensed carriers with just over 4 million mobile services in operation – more than half of which were analogue services.[5]

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[1] Australian Bureau of Statistics (ABS), Australian Social Trends 2008, Article: *Internet access at home*, July 2008, pp 1-2.
[2] ABS, *8153.0 Internet Activity Survey* (June 2008).
[3] ACCC, *Telecommunications competitive safeguards for 2006-2007* (2008), p.31
[4] ABS, *8153.0 Internet Activity Survey* (June 2008).
[5] Australian Communications Authority, *Telecommunications Performance Report 1998-99* (1999), p 98.

In addition, mobile networks are no longer used just for providing voice calls but increasingly for emails, internet access, downloading music and other data services.

Smaller players are continually improving their services, giving Australians a range of providers for mobile broadband coverage. I expect the next 18 months will see further evolution of this technology.

Telsyte forecasts mobile broadband usage will grow by 76 per cent this year in Australia, given the expansion of networks and the release of handsets such as the Apple iPhone and Blackberry Bold.

A question this is posing for regulators both here and internationally, is to what extent are mobile phones becoming a substitute for traditional fixed line services?

At this stage, our view is there are various limitations with mobile services meaning it will not always be a replacement for fixed line services for consumers, in particular for broadband services. Saying that, we recognise that many customers can and do switch from fixed to mobile, and this is a trend that we will be closely monitoring in the coming years.

The changes in the telecommunications sector over the last decade since competition reforms were implemented has led to increased choice, more products and lower prices for consumers.

As part of its statutory requirements the ACCC must report yearly on changes in prices for fixed and mobile voice services. In the ten years to 2006-07 the average price for a basket of fixed voice services, used by both residential and business consumers, had fallen by 26.5 per cent in real terms. The overall average prices for mobile services had fallen by about 42 per cent during that same time.

The ACCC does not currently monitor internet prices but I note the Internet Industry Association conducts regular surveys and recently observed that the best value monthly cost of taking a 2GB per month, ADSL2 plus service has nearly halved for many consumers in the last 18 months. Although there was not always direct price competition, the Association noted that generally download caps had continued to lift, as with the development of other options, such as peak and off-peak download times.

And all of this has happened notwithstanding the start of the National Broadband Network process and the uncertainty that its transition will inevitably cause.

The National Broadband Network process

The roll-out of a National Broadband Network was a key election commitment during the 2007 federal election. However, the debate surrounding the construction of a national optical fibre network has been a major issue for the Australian telecommunications sector over the last few years.

In April, the Government issued a Request for Proposals regarding the roll-out of the NBN. The requirements for the NBN included:

- The use of fibre-to-the-node architecture (which may or may not include deployment of VDSL technology) or fibre-to-the-premises architecture
- Availability to at least 98% of homes and businesses within five years of the contract having been awarded
- Minimum download speeds of at least 12 megabits per second
- Ability to provide uniform and affordable retail pricing to all consumers
- Open access arrangements that allow all service providers access to the network on equivalent terms.

In relation to this last point, the Australian Government has taken the view that if a party intends to supply both wholesale and retail services it should demonstrate what structural measures or models should be put in place to prevent self-preferential treatment.

While I don't want to comment about specific NBN Proposals, I note that structural issues have been a pretty popular topic throughout the year. Indeed, the ACCC was asked for its views on the current operational separation regime when it appeared at Senate Estimates hearing in June this year. Specifically we were asked if "the current operational separation regime that applies to Telstra is an effective mechanism for promoting equivalency between Telstra and its competitors?" To quote our Chairman Graeme Samuel:

> *The short answer is probably no. We continue to receive complaints of conduct that suggest that the objective of equivalence, which was the objective of the regime, is not being achieved. There have been some instances of conduct since the regime's inception which, while it is not clear they breach the operational separation plan, do not promote the objective of equivalence which was the fundamental objective of the plan in the first place. In relation to the other objective of transparency, there is some additional reporting that the regime provides. However, this has been of limited benefit and is at a highly aggregated level. I guess, in summary, we would have to say that the regime is fundamentally unduly complex. There is a lot of discretion left to Telstra. There are limited self-regulatory mechanisms and unduly convoluted processes to implement any corrective action if a problem is identified.*[6]

A process reviewing the proposals, submitted last week in response to the Request for Proposals, will be undertaken over the coming months. As with all our activities, the ACCC will assess each and every proposal on its merits.

Without a doubt, any roll-out of the NBN will require an evolution in telecommunications regulation in Australia. Australia's size and unique demography present particular challenges in the development of a national broadband network and will continue to be important considerations in the way we regulate telecommunications services.

The Government has also indicated that legislative change may be required to assist in the implementation of a national fibre-to-the-node architecture. In

[6] ACCC Chairman Graeme Samuel appearing before Senate Standing Committee on Economics Estimates (budget estimates) 5 June 2008, Hansard Transcript, p E41.

developing an appropriate regulatory framework for the NBN, Australia will certainly be confronting some of the same issues that many countries have grappled with in recent times, particularly in Europe.

This includes the relative merits of bit-stream access, duct-access and sub-loop unbundling. Additionally, Australia's major challenges will include addressing the significant population density and distance issues that confront the roll-out of a new fibre network.

Conclusion

There has been rapid growth and development in Australia's broadband industry in recent years, in terms of the number of competitors, infrastructure investment, faster speeds, greater coverage and new products.

The current NBN process promises a new wave of infrastructure investment, technological change and product innovation. And, as experienced internationally, it is raising a range of issues about industry structure, competition, regulation, investment, and most importantly, about consumers.

The Australian Competition and Consumer Commission has a role to play in advising the Expert Panel, and ultimately the Australian Government, in finding the right balance here.

The process provides an opportunity to ensure the foundations are in place for a healthy, competitive broadband industry in the future, which continues to benefit the country's millions of telecommunications users.