

TOWARDS THE FUTURE





Balgo community meeting, NT. Bruce Scott, Dr. Bill Glasson, Ronald Mosquito, Maggie Kavanagh and Luke Dingle. 17 April 2008 (in addition, on previous page Alexandra Gartmann and Marcia Farrer (Petra)).

CHAPTER 3.1 — A NEW FRAMEWORK

Mobile and broadband services are growing rapidly in significance in regional Australia. They are, of course, equally important for urban areas. What differs is the degree of choice, technology used to deliver services, and equitable terms and conditions of access and, therefore, adequacy of services in regional Australia.

Over time a range of Australian Government programs have sought to address this difference. However, in the more remote areas of Australia, future equitable access to mobile and broadband communications services remains uncertain.

At the same time, it is widely understood that enhanced telecommunication services are essential for both social and economic development in regional Australia. They help:

- provide a competitive advantage in global markets
- foster social cohesion and participation
- reduce isolation, and
- facilitate the delivery of public services such as health care and education.

Telecommunications development in rural Australia should remain a national goal.

Unlike voice telephony and payphones, there is no guarantee of access or continuity of access for mobile and broadband services. The USO only applies to voice services — as set out in Part 2 of the *Telecommunications (Consumer Protection & Service Standards) Act 1999*. Further, Australian Government programs supporting mobile and broadband services are typically short-term. There is no over-arching assurance of equitable access.

Unlike some other important goods and services, the market alone cannot be relied upon to assure future equitable access to these communications services. The level of mobile and broadband services currently available in regional Australia has only been achieved through a range of government market interventions, including substantial publicly funded subsidies to providers.

The current gaps in service adequacy and Australian Government interventions are detailed in the previous chapters and in Appendix F. It is reasonable to conclude that, in the absence of such interventions, the provision of these services to consumers on an equitable basis is not commercially viable. Therefore, there are real risks of service adequacy gaps worsening.

The idea that the concept of universal service in the telecommunications legislation should be expanded to include internet access technologies and broadband communications is not new.

- In 1996, the report of the Review of the Standard Telephone Service recommended that a digital data capability... *should be provided through the USO mechanism*¹ where it is not provided through the operation of the market. The review did not recommend the inclusion of mobile telephony because it concluded that the mobile telephone services were not sufficiently socially important at the time.
- In 1998, the Australian Communications Authority Digital Data Service Review was instructed by the then Minister to conduct a public inquiry into whether the benefits of prescribing a minimum data rate access to the internet would exceed the costs.²
- In the 1999 legislative package supporting the second stage of the privatisation of Telstra the 'universal service' legislative provisions were amended to provide for a 'Digital Data Service Obligation' to ensure all people in Australia have access upon request to a digital data service of 64kbps.

As noted in earlier chapters, the Committee heard in its consultations of the desire that some form of 'universal service' should apply to voice, mobile and internet services. These views have also appeared in the submissions on National Broadband Network (NBN) regulatory matters. For example, the NSW Farmers' Association said:

*The USO must be broadened to include a guarantee that timely and affordable access to future technology be provided to rural and regional NSW, ...to include data standards as well as telephony standards.*³

They have been supported by e-Applications Special Interest Group (e-ASIG) which said:

*The concept of a USO should be retained and reformed into a Community Service Obligation. This is required to ensure that minimum nationally agreed benchmarks in bandwidth and broadband services are provided within a local community geographic area.*⁴

In responding to community concerns about access to these important services, successive governments have implemented a range of measures aiming to improve the availability and price. These measures have dramatically and significantly improved access to telecommunications for people in regional, rural and remote parts of Australia.

In addition to the competition and privatisation reforms, governments have devoted considerable public funds to support access to voice services, the internet, mobile services and payphones.

Programs have included, for example:

- providing local call dial-up access to the internet through the Networking the Nation programs which funded the development of local internet service providers
- supporting untime local calls for customers through the 'extended zones' agreement with Telstra
- expanding the geographic reach of terrestrial mobile phone networks through Australian Government programs such as Networking the Nation and Towns over 500 Agreement
- guaranteeing access to metro-comparable internet services through programs such as the Australian Broadband Guarantee (ABG) and its precursors, and
- improving access to payphones for remote Indigenous communities through programs such as Backing Indigenous Australia.

Today, the Australian Government is implementing the policy for the roll-out of the NBN to:

...deliver minimum download speeds of 12 megabytes per second to 98 per cent of Australian homes and businesses.... and enable uniform and affordable retail prices to consumers, no matter where they live.⁵

However, none of these measures address the issue of uncertainty and fragility of supply, or the need for ongoing improvements in service accessibility for individuals and small businesses in regional areas. Without ongoing improvements regional Australia will fall behind urban Australia.

Further, lack of certainty and the short-term nature of some previous incentive-based interventions may adversely affect consumers' use and reliance on these services and providers' willingness to investment in infrastructure. For example, the ABG program is an Australian Government scheme that subsidises regional broadband connections on a per customer basis. In the past, providers have been subject to unpredictable changes with funding shortfalls and transition arrangements from one funding period to the next. This has resulted in thousands of dissatisfied customers, despite the benefits the

program has delivered to hundreds of thousands of consumers. Therefore aspects of the program have been criticised. The Committee notes the Australian National Audit Office (ANAO) report on the management of the ABG program and its precursors.⁶

Finding 3.1.1:

The objective of ensuring communication services are available across Australia remains valid and should continue into the future.

Finding 3.1.2:

Australian Government involvement currently supports access to voice services, internet and mobile services. The lack of certainty inherent in some programs inhibits both consumer take-up and provider investment.

THE NEED FOR A NEW FRAMEWORK

Addressing the need for ongoing programs by expanding the scope of the universal service regime as currently framed is not practical.

As discussed in Chapter 2.3 — Voice telephony services and Chapter 2.4 — Payphones, there is substantial controversy about the current USO arrangements. ACMA referred to the USO arrangements as a ‘broken concept’ and identified three areas of significant concern:

- its administration and costing
- the collection of USO levy payments, and
- the standard marketing plan and service standards.⁷

Similar concerns are expressed by other bodies in submissions to the Australian Government’s review of the USO. The Committee notes nearly all stakeholders dislike the current arrangements for the USO.

As mentioned in Chapter 2.3 — Voice telephony services, the USO arrangements are vague. As a consequence, awareness of the USO arrangements is poor and the level of understanding of how they operate is worse. This was clearly apparent to the Committee during its consultations. The mistaken belief that the USO confers on consumers or businesses a right is common. But the USO does not give a statutory right to consumers

to access services. There are no express provisions in either the *Telecommunications Act 1997* or the *Telecommunications (Consumer Protection and Service Standards) Act 1999* which would confer on a private person an express right to enforce through the courts the provision of a service covered by the USO. The USO does create a statutory obligation on the USO provider, and that obligation is enforceable by the ACMA under the *Telecommunications Act 1997*.

Poor understanding of the arrangements is also understandable given the overlay of measures that have been considered necessary to ensure a ‘sufficient and satisfactory’ standard of service is available to consumers. These ‘overlay’ measures include the Customer Service Guarantee, the Priority Assistance Service and the Network Reliability Framework and are discussed in detail in Chapter 2.3 — Voice telephony services and in Appendix F.

The Regional Telecommunications Inquiry (RTI) in 2002 also noted the problems with the USO arrangements. They recommended the arrangements be reviewed and that future equity objectives not be achieved through the traditional USO arrangements.⁸

As noted above, the Committee considers the concept of universal service remains valid: the community expects that basic communications services be available to people and businesses irrespective of their location within Australia.

Reflecting the importance and significance of these services, the Australian Government already accepts (through its various programs) that universal service needs extend to mobile and broadband services. However, the Committee believes there is a need to provide greater assurance and certainty for ongoing accessibility to these services. The current USO arrangements are unsuitable for this and the Committee notes that they no longer work effectively. A new framework is needed.

Finding 3.1.3:

The current arrangements for the USO are no longer working effectively. There is a need to provide greater certainty over future access to mobile, broadband and voice services. The USO regime is not suitable for extension to these services. A new framework is needed.

THE OPPORTUNITY FOR A NEW FRAMEWORK

The Committee is aware that technological developments are dramatically reducing the cost of making communication services available to people in remote parts of Australia. This means the previously prohibitive costs in providing services to remote Australians are now substantially lower, and there is potential for costs to be further reduced.

For example, the provision of new voice services to premises without a copper wire connection to the network can be achieved in many instances for far lower cost through the use of mobile telecommunications infrastructure. Similarly, the Committee understands that high speed broadband can also be provided through wireless technologies (including mobile telecommunications infrastructure and technologies such as WiMax), at lower cost in many cases.

Such technological progress, along with competitive markets, and the proposed roll-out of the Australian Government's NBN, can be expected to make adequate services available to the vast majority of people in Australia.

Under the NBN:

- reduced costs and improved infrastructure capabilities will facilitate some extension of competitive markets into regional Australia. One example is the plan for Optus and Telstra 3G mobiles noted in Chapter 2.1 — Mobile communication. Also, competitive markets are already delivering geographically uniform prices for terrestrial mobile phone services and long distance phone calls, and
- high quality voice, data and video services will be supported for 98 per cent of Australian homes and businesses — the NBN will also enable uniform and affordable retail prices to consumers, no matter where they live.

Nevertheless, as noted above, there is still a need for ongoing Australian Government intervention. Firstly, as the Committee has found in this review and detailed in the previous chapters, service adequacy gaps remain in some areas.

Secondly, given the development of the market in regional Australia in association with significant Australian Government funding assistance and the changing nature of communications services, there remains a need to provide an assurance or guarantee of ongoing service accessibility.

While the NBN offers significant changes, it does not provide an ongoing assurance or guarantee of service accessibility for all Australians.

Finding 3.1.4:

Technological developments and the NBN provide an opportunity to review consumer protections.

A NEW FRAMEWORK

The Committee considers that a legislative framework on universal service is needed to ensure, to the extent that is possible, the Australian Government continues interventions to address any gaps or shortfalls in service access. This will ensure that these significant and important communications services are available to all people and businesses in Australia, regardless of where they live and work.

The term 'live and work' is not to be construed as suggested services only need to be made available to one particular geographic location or street address. For example, people do not necessarily work in one particular location, and many people spend significant periods of time away from one particular residential address, as highlighted in Part 1.

The proposed legislative framework will be an over-arching strategic and longer-term framework that will provide the assurance or guarantee necessary for consumers and providers to have reasonable certainty about future accessibility. It will also support better utilisation by consumers and investment by industry.

By providing for specific Australian Government intervention that is directed only to where there is a gap in service accessibility, any adverse impacts on investment and competition will be minimised. Indeed, the greater certainty will foster increased, and more efficient, investment in infrastructure.

The RTI in 2002 commented that the preferred approach to achieve future service equity objectives in competitive markets is through incentive schemes transparently funded by government that seek to stimulate competition and choice while also promoting equity of access.⁹

The Committee agrees with this approach, and suggests that any legislative framework needs to allow for service accessibility objectives to be achieved in this way. Government intervention should be targeted at specific gaps or problems to ensure the service equity

objectives are achieved. The Committee also suggests that service equity objectives need to be clearly and precisely articulated through the specification of standards. Without specified standards, the concept will remain vague and will not provide any tangible or recognised benefit to household and business consumers.

The arrangements need to be able to accommodate changes in technologies and the market, and ensure the accessibility relativities between regional and urban Australia remain relevant and are maintained or improved over time. The Committee considers that arrangements need to be able to deal more effectively with changes in relativities of service access.

The Committee supports an approach that would accommodate these requirements and should comprise the following elements:

- The legislation provide for the Minister to specify standards, based on advice from independent bodies (including the RTIRC). This would allow the Minister to amend the standards to ensure they remain relevant and appropriate. It would enable the Australian Government to weigh up the potential benefits and costs, including the likely fiscal and opportunity costs of achieving the standards. Most importantly it would provide a way for the Government to be held transparently accountable for the objectives. The involvement of the RTIRC would provide for ongoing transparent advice. The standards would also provide consumers and the industry with clear and easy-to-understand information.
- The legislation require the Australian Government to develop an implementation plan detailing the measures or interventions necessary to ensure individuals and businesses can purchase services that meet the standards, irrespective of their location in Australia. The interventions would preferably include transparently funded incentive schemes that seek to stimulate competition and promote equity of access. The measures might also, in some instances, include regulation.
- The legislation incorporate measures to hold the Australian Government accountable for the interventions it implements to ensure services are available for purchase at the established standards. To achieve this, a body independent of the Minister is to measure the effectiveness of the interventions and report to Parliament and the public.

This fresh approach would provide:

- a strategic framework supporting certainty of service access to consumers and a more predictable environment for providers to invest in infrastructure
- greater simplicity, transparency and clarity to the public on the outcomes they can expect — in terms of what services they should have access to and on what terms
- support for the development of competitive markets by providing for targeted government interventions only where needed
- flexibility for the Government to determine the most effective and efficient way to ensure the required outcomes are achieved, and
- Australian Government accountability to the public, through Parliament, on both the specification of the standards and the effectiveness of the Government's measures in ensuring all people and small businesses are able to purchase services at these standards irrespective of their location within Australia.

Further, the efficient operation of competitive markets and the ability of communities to maximise the benefits from using telecommunications will not be supported without improved information availability and the ongoing development and investment in human capital and skills. In Part 1 of this report, the Committee makes a number of recommendations on these issues. The main themes of these recommendations are:

- encouraging innovative applications access and more effective use of telecommunications in regional areas
- skills development and training for specific purposes relevant to regional communities
- enhanced awareness-raising and understanding of telecommunications capacity and limitations in regional areas, and
- measures to improve the equity of services for disadvantaged groups and people with special requirements.

The Committee believes that prior to the implementation of a new framework for universal access to adequate services, the Australian Government should provide funding support to implement the recommendations set out in Part 1 of this report.

Recommendation 3.1.1:

The Australian Government develop a new framework to provide an assurance of ongoing access to voice, mobile, broadband and payphone services to replace the existing USO legislation. The legislative framework provide for:

- a. The Minister to determine the relevant standards — the Communications Service Standard (CSS). The CSS is to include standards for voice, broadband, mobile phone and payphone services.
 - (i) The voice standard must include internationally recognised voice quality measures.
 - (ii) The broadband standard must be equitable with services delivered by the NBN.
 - (iii) The mobile standard must be for hand-held mobile phones.
 - (iv) The payphone standard must include objective criteria for access to payphones, and in developing this standard consideration needs to be given to whether a standard is needed for public internet access.
- b. The Regional Telecommunications Independent Review Committee to be consulted on proposed changes to the standards.
- c. The Australian Government to develop, publish and implement a 'plan of measures' to ensure that all individuals and all small businesses can purchase services that meet the CSS, wherever they live or work in Australia, on an equitable basis.
- d. An independent body, not subject to Ministerial direction, be required to conduct an audit at least every three years on the effectiveness of the Australian Government's 'plan of measures' in ensuring communications services meeting the standards are available to be purchased by all, and this audit be tabled in Parliament.

As a consequence, the Committee understands that implementation is likely to take several years. The Committee recognises that this recommendation involves substantial and complex changes to existing regulatory arrangements which will be significantly influenced by the NBN. Nevertheless, if the CSS is to provide sufficient protection for the people in the 'Extended Zones', the Minister will need to have in place appropriate arrangements to ensure that the businesses and individuals in these zones continue to have access to adequate services for the period between the conclusion of the Extended Zones Agreement with Telstra on 31 May 2011 and the introduction of the CSS.

Recommendation 3.1.2:

The new framework is to be in place on or before 30 June 2013.

Recommendation 3.1.3:

The Australian Government implement suitable arrangements ensuring people in the Extended Zones are able to continue to access services on at least the same conditions applying under the Extended Zones Agreement from the time that Agreement ends until the implementation of the CSS.

One of the problems with the USO has been the need to overlay additional regulatory measures to address shortcomings in service delivery. This has led to:

- poor consumer understanding
- a lack of clarity and difficulty in enforcement, and
- excessive compliance costs for providers.

To minimise these problems, the Committee considers that the CSS will need to include the following variables for each service type:

- voice services — voice quality, price and connectivity
- broadband (always-on internet) — upload speeds, download speeds, latency, jitter and volume limits, and price
- mobile communications — the characteristics of the consumer device and price
- payphone — entitlement criteria, price, and processes for locating, removing and relocating services, and
- reliability, and connection and repair times for all of the above service types.

Individuals and businesses also conduct business and social activities on coastal waters. This includes a number of marine business activities (including fishing), as well as recreational and life-style activities involving boating. The Committee has heard and noted that the communications needs of these groups are significant, and considers that the definition of 'live and work' must include Australian territorial waters.

Current regulatory arrangements applying to the supply of the universal voice service have particular provisions dealing with the supply of equivalent services to people with disabilities¹⁰ and a requirement on the universal service provider to offer pricing packages for low income household consumers.¹¹ The Committee notes the importance of these measures and expects that, in developing new legislative arrangements, the

Australian Government will ensure that appropriate provision is made to maintain outcomes for these groups.

Structured in the way proposed, the minimum standards would incorporate many of the existing consumer protections in legislation and licence conditions. The Committee in particular draws the Australian Government's attention to the circumstances of the individuals and businesses in the 'Extended Zones' and of the potential for the CSS to ensure that they have ongoing access to adequate services. As noted above, the implementation of the CSS needs to recognise the conclusion of the Extended Zone Agreement with Telstra in 2011.

Given the substantial changes proposed, the Committee expects that the Australian Government would undertake further consultations with the public and industry on the details, including appropriate transition arrangements to ensure consumers are protected during the changes. The Committee understands the extent and complicated nature of the proposal, particularly with the added complexity of the roll-out of the NBN, will necessitate an implementation period of several years.

By incorporating and/or consolidating the various overlay regulations, the recommended approach would also provide an opportunity to rationalise current regulatory arrangements and remove the regulatory burden for industry while maintaining or improving service delivery to consumers in regional rural and remote Australia. This may extend to the current industry tax to fund the existing USO. However, the Committee notes that it is possible to retain the industry specific tax to fund interventions that may be necessary to ensure services meet appropriate Communications Service Standards.

CONSUMERS' RIGHTS

The Committee has previously noted that one of the failings of the current arrangements is that the USO is imposed on Telstra — consumers have no 'right' and certainly have no particular grievance process if they request a USO service and it is refused (other than to complain to ACMA). While the current USO framework is based on the concept that there will always be a carrier of last resort that consumers can obtain a service from, this is illusory in practice. The universal service provider can always legally refuse to supply a request for a service on the basis that supplying the service would require it to take steps which are not reasonable.¹²

The proposed CSS arrangements would effectively shift the legislative obligation from a telephone company, Telstra (as it is today), to the Minister. The Minister would be required to implement measures to ensure the services are available. Without any other measures, this would leave consumers in the same position as before — that is, without recourse in the event that the market and the Australian Government's measures fail to guarantee access in accordance with the standards.

The Committee considered whether a consumer should be entitled to damages or a compensation payment from the Australian Government if they are unable to get a service that meets the appropriate standard. In the light of experience with the CSG, the Committee considers that this is not appropriate at this time.

The Committee believes that it would be more effective to make public, through the Australian Parliament, instances where consumers are unable to get a service meeting the standard.

The Committee considers that this issue may be satisfactorily addressed by providing a mechanism to address and resolve service inadequacy issues that may arise under the new framework. Such a mechanism should be simple for individuals and small businesses to use. At a minimum the scheme should provide for:

- a. If consumers have been unable to obtain access to services that meet the standards, then the prospective consumer should receive advice of services available. If no services are available, for the Minister to be informed.
- b. If individual instances of failure to access a service that meets the standards are found and not resolved, then a report is to be prepared and published annually detailing those instances.
- c. If a consumer is refused access to a subsidy or other schemes which are part of the Australian Government's 'implementation plan' for the CSS and the consumer disputes that decision, then that decision should be reviewable.

The Committee believes that such a complaints process could be done through changes to the Telecommunications Industry Ombudsman (TIO) scheme. Extending the jurisdiction of the TIO to allow this to occur would take the TIO scheme beyond an industry dispute resolution service and involve it in inquiring into government actions and programs. The Committee notes that the TIO already has a role in legislation regarding consumer entitlements under the Customer Service Guarantee in issuing evidentiary certificates¹³, however, it may be that the TIO scheme may need to become a government-industry body rather than a just an industry body.

The role the Committee considers that the TIO would have in relation to government action would be similar to other government ombudsman arrangements, that is the power to inquire and if necessary report directly to Parliament.

Recommendation 3.1.4:

The Australian Government provide a mechanism, simple for individuals and small businesses to use, to address and resolve service inadequacy issues that may arise under the new framework. At a minimum the mechanism provide that:

- a. If consumers have been unable to obtain access to services that meet the standards, then the prospective consumer should receive advice of services available. If no services are available, for the Minister to be informed.
- b. If individual instances of failure to access a service that meets the standards are found and not resolved, then a report detailing those instances is to be prepared and published annually and within the first quarter of the following year.
- c. If a consumer is refused access to a subsidy or other schemes that are part of the Australian Government's 'implementation plan' for the CSS, and the consumer disputes that decision, then that decision should be reviewable

Recommendation 3.1.5:

The Australian Government restructure the TIO scheme to provide for the TIO to appropriately undertake the consumer complaints mechanisms for the new framework.

IMPLEMENTATION OF THE CSS

Deploying new infrastructure has the potential to provide significant improvements to telecommunications services, competition and choice in regional Australia. It also has the potential to support the introduction of the CSS with little further cost to government. Making the necessary investments now to improve infrastructure and service availability will reduce the ongoing burden for the Australian Government in supporting the CSS. If users can access services of adequate standards, further Government action under the CSS will not be needed.

The outcome of the NBN procurement process is expected to improve the viability of deploying telecommunications infrastructure for communities not served by the NBN.

The extent of this improvement will not be known until the NBN contract is finalised. Once the outcome is known, the identification of the infrastructure necessary to support the telecommunication service needs for these communities will require further investigation.

The commercial incentives for infrastructure investment and deployment will also be greatest where the infrastructure supports the delivery of services in demand. There is very little chance of sustainable long-term outcomes if infrastructure like backhaul is built without the potential for the provider to receive revenues from users as soon as possible after it is rolled out.

Broadband services are the most compelling services that will drive investment in infrastructure. The NBN benchmark of 12Mbps for download speeds will need to be matched in non-NBN coverage areas. Reflecting the diverse nature of regional communities and the range of economic activities occurring in them, communities will have their own priorities for improving services and the infrastructure needed to support these services.

In the period leading up to the full introduction of the CSS, the Australian Government should provide strong incentives for investment in infrastructure, particularly backhaul to support high speed broadband, and improved voice and mobile services. This should be in areas where there are enough users to support viable ongoing services, and particularly in the Extended Zones.

As noted in Chapter 2.1 — Mobile communication, the deployment of backhaul infrastructure may reduce costs of the extension of mobile coverage if the price of backhaul services fall. Mobile carriers often cite backhaul costs as a barrier to entry in more remote communities.

As noted in Chapter 2.3 — Voice telephony services, the deployment of improved infrastructure in areas beyond the NBN footprint also opens the potential for the introduction of voice service platforms which could make for long term improvements to the reliability and functionality of these services.

The Committee acknowledges that not all end users will have access to adequate services at a level that would allow for the removal of ongoing government support across the voice, broadband, mobile and payphone service spectrum prior to the introduction of the CSS. It believes that priorities for the extension of telecommunication services should be based on a consideration of the benefits (social and economic) against the net cost of provision. In determining potential infrastructure upgrade locations, the Committee believes the Australian Government should use the following priorities and criteria.

Table 3.1.1 Priority and criteria for further network extensions

Priority	Criterion	Description
1	'service towns'	Use a score based on the presence of significant social infrastructure in the town. For example, a school, health facility, police station, council chambers or depot, or major commercial activity.
2	Significant industries and the number of 'potential users' (populations)	Use a score based on the presence of significant rural industries in the area and potential users. 'Potential users' includes an assessment of itinerant and seasonal changes and travellers on roads. Rural industries include agriculture, natural resource management, tourism and transport.
3	Improve existing coverage opportunities	Use a score based on the potential benefits from increasing the number of people who can effectively access the network compared to the net cost of improving coverage.

As identified in Chapter 2.5 — Backhaul, there is a limited amount of information available to governments in relation to existing infrastructure. Once the NBN outcome is known, it will also be possible to model the demands of users more specifically in the areas not served by the NBN. Of course, it is possible that developments including the NBN may mean that no additional expenditure is required by government.

The Committee therefore considers essential that a market testing device such as a request for information be undertaken after the outcome of the NBN process is known. This market testing needs to be informed by:

- accurate data on the availability of existing infrastructure, and
- the specification of the relevant standards, that is, the CSS.

These processes would provide the necessary information, (i.e. costs, service parameters and potential usage) for developing appropriate policy responses from government. An holistic approach is required which focuses on those areas unlikely to be served by the NBN or terrestrial mobile coverage. The quicker this information is obtained, the greater chance the Australian Government will have of successfully ensuring the required services are available to regional communities and that the necessary infrastructure is in place to support the delivery of adequate services under the CSS. The request for information must be issued no later than three months after the successful bidder for the NBN has been announced.

The Committee is aware that the Australian Government has allocated funding to implement a response to the recommendations of this Review. The Committee believes that many communities not served by the NBN will be able to develop a case for the type of infrastructure deployment outlined above and that, in aggregate, these cases may exceed available funding.

If this is the case, then the Australian Government will be faced with the choice of using more funding in the short term or allocating more money in an ongoing basis under the CSS.

As outlined in Part 1, the Committee has made a number of recommendations which will make a call on funding. The Committee considers that a figure of 10–15 per cent of the available funding may be an appropriate starting point. Beyond this, investment in the maintenance and better use of existing services, the Committee recommends that funding be allocated to implementation of the new framework.

The Committee understands that funding for the new framework is available from the Australian Government 2008–09 Budget, and that further funding may be available from the interest accruing on the Communications Fund.

Recommendation 3.1.6:

The Australian Government provide adequate funding to ensure the outcomes of the recommendations in Part One are achieved.

Recommendation 3.1.7:

The Australian Government, in the lead up to the introduction and implementation of the CSS:

- a.
 - (i) obtain the necessary information on infrastructure needed to support services to be available under the CSS
 - (ii) engage in a consultative process to develop the initial standards for the CSS as defined in recommendation 3.1.1(a)
 - (iii) obtain information on the likely utilisation or demand for infrastructure, and
 - (iv) obtain estimates of costs
- b. by 30 June 2013, take the necessary action for infrastructure improvements to occur in regional Australia to support the CSS with a holistic approach; and that any expenditure of funds is in accordance with the priorities and criteria set out in table 3.1.1, and

- c. ensures the process outlined in (a) begins within three months of the Government's response to this Report, or within three months from the date the NBN contract has been awarded, whichever is the earlier.

SUMMARY OF FINDINGS

Finding 3.1.1:

The objective of ensuring communication services are available across Australia remains valid and should continue into the future.

Finding 3.1.2:

Australian Government involvement currently supports access to voice services, internet and mobile services. Further, the lack of certainty inherent in some programs inhibits both consumer take-up and provider investment.

Finding 3.1.3:

The current arrangements for the USO are no longer working effectively. There is a need to provide greater certainty over future access to mobile, broadband and voice services. The USO regime is not suitable for extension to these services. A new framework is needed.

Finding 3.1.4:

Technological developments and the NBN provide an opportunity to review consumer protections.

SUMMARY OF RECOMMENDATIONS

Recommendation 3.1.1:

The Australian Government develop a new framework to provide an assurance of ongoing access to voice, mobile, broadband and payphone services to replace the existing USO legislation. The legislative framework provide for:

- a. The Minister to determine the relevant standards — the Communications Service Standard (CSS). The CSS is to include standards for voice, broadband, mobile phone and payphone services.
The voice standard must include internationally recognised voice quality measures.
The broadband standard must be equitable with services delivered by the NBN.
The mobile standard must be for hand-held mobile phones.
The payphone standard must include objective criteria for access to payphones, and in developing this standard consideration needs to be given to whether a standard is needed for public internet access.
- b. The Regional Telecommunications Independent Review Committee to be consulted on proposed changes to the standards.
- c. The Australian Government to develop, publish and implement a 'plan of measures' to ensure that all individuals and all small businesses can purchase services that meet the CSS, wherever they live or work in Australia, on an equitable basis.
- d. An independent body, not subject to Ministerial direction, be required to conduct an audit at least every three years on the effectiveness of the Australian Government's 'plan of measures' in ensuring communications services meeting the standards are available to be purchased by all, and this audit be tabled in Parliament.

Recommendation 3.1.2:

The new framework is to be in place on or before 30 June 2013.

Recommendation 3.1.3:

The Australian Government implement suitable arrangements ensuring people in the Extended Zones are able to continue to access services on at least the same conditions applying under the Extended Zones Agreement from the time that Agreement ends until the implementation of the CSS.

Recommendation 3.1.4:

The Australian Government provide a mechanism, simple for individuals and small businesses to use, to address and resolve service inadequacy issues that may arise under the new framework. At a minimum the mechanism provide that:

- a. If consumers have been unable to obtain access to services that meet the standards, then the prospective consumer should receive advice of services available. If no services are available, for the Minister to be informed.
- b. If individual instances of failure to access a service that meets the standards are found and not resolved, then a report detailing those instances is to be prepared and published annually and within the first quarter of the following year.
- c. If a consumer is refused access to a subsidy or other schemes that are part of the Australian Government's 'implementation plan' for the CSS, and the consumer disputes that decision, then that decision should be reviewable

Recommendation 3.1.5:

The Australian Government restructure the TIO scheme to provide for the TIO to appropriately undertake the consumer complaints mechanisms for the new framework.

Recommendation 3.1.6:

The Australian Government provide adequate funding to ensure the outcomes of the recommendations in Part One are achieved.

Recommendation 3.1.7:

The Australian Government in the lead up to the introduction and implementation of the CSS:

- a.
 - (i) obtain the necessary information on infrastructure needed to support services to be available under the CSS
 - (ii) engage in a consultative process to develop the initial standards for the CSS as defined in recommendation 3.1.1(a)
 - (iii) obtain information on the likely utilisation or demand for infrastructure, and
 - (iv) obtain estimates of costs
- b. by 30 June 2013, take the necessary action for infrastructure improvements to occur in regional Australia to support the CSS with a holistic approach; and that any expenditure of funds is in accordance with the priorities and criteria set out in table 3.1.1, and
- c. ensures the process outlined in (a) begins within three months of the Government's response to this Report, or within three months from the date the NBN contract has been awarded, whichever is the earlier.

Endnotes

- 1 Department of Communications, Information Technology and the Arts, *Review of the Standard Telephone Service*, December 1996, p.11.
- 2 Australian Communications and Media Authority, *Digital Data Inquiry*, 15 August 1998.
- 3 NSW Farmers' Association National Broadband Network regulatory submission, www.dbcde.gov.au/communications_for_business/funding_programs_and_support/request_for_submissions_on_regulatory_issues/submissions
- 4 E-Applications Special Interest Group, National Broadband Network regulatory submission, www.dbcde.gov.au/communications_for_business/funding_programs_and_support/request_for_submissions_on_regulatory_issues/submissions
- 5 Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, *Government invites National Broadband Network proposals*, media release, 11 April 2008.
- 6 Auditor-General, Audit Report No.36 2006–07, Performance Audit, *Management of High Bandwidth Incentive Scheme and Broadband Connect Stage 1*.
- 7 Australian Communications and Media Authority, submission dated 6 June 2008, p.2.
- 8 RTI, *Connecting regional Australia: the report of the Regional Telecommunication Inquiry*, November 2002, recommendation 2.2 and p.263.
- 9 RTI, *Connecting regional Australia: the report of the Regional Telecommunication Inquiry*, November 2002, p.263.
- 10 See for example, sub-section 9E(1)(a)(ii), 9E(1)(b)(ii) & 9E(2) of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.
- 11 See clause 22 of the Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997 which requires Telstra to have arrangements for low income customers.
- 12 See subsection 12C(1) of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.
- 13 See section 119 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.



Over the Northern Territory. 17 April 2008.

CHAPTER 3.2 RTIRC — FUTURE ARRANGEMENTS

The Regional Telecommunications Independent Review Committee is a statutory committee with the function to review the adequacy of telecommunications services in regional Australia as set out in Part 9B of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

This Review commenced in August 2007 and reported in September 2008. The Committee deferred its consultation program for a period in accordance with the Caretaker Conventions during the 2007 Federal Election.

The next report from the Committee is due by late 2012. The legislation provides for the next report to be completed within three years after the Australian Government's response to this first report. The Government is required to table its response within six months of receiving the Report.

Under the legislation, the terms of the current Committee members will expire mid-way through the next review process. There may be merit in the Minister considering how continuity might be provided to assist the efficiency and effectiveness of the next review process.

The complexities of the NBN have made it difficult for this Committee to make specific recommendation in some areas relating to the future adequacy of significant telecommunications services. Accordingly, the Committee intends to meet after the awarding of the NBN contract to consider the impact of the implementation of the NBN on matters relating to the adequacy of services in regional parts of Australia.

The Committee recommends in this report very significant changes to legislation underpinning the concept of universal telecommunications services. Implementation of these recommendations will involve considerable work and consultation by the Australian Government. The Committee would welcome the opportunity to provide further advice to the Minister on this.

The Committee notes that in some areas there remains insufficient and/or unreliable information. The Committee proposes to meet with Departmental officers and officers of other agencies at least bi-annually to ensure information requests for the next Review can be better achieved.

The Committee has conducted a series of public meetings program between February and May 2008 in 20 regional locations across Australia. This process has provided invaluable information and perspective to inform its assessment of the adequacy of services in regional areas.

The Committee has appreciated the support it has received from the Department of Broadband, Communications and the Digital Economy and associated agencies. However, the consideration of the significance of services as well as the benefits that will follow from addressing inadequacy of telecommunications services would benefit from a wider engagement with all levels of government on service delivery in regional areas, and a refocusing of resources on providing specific information requirements that may need to be sourced from industry and elsewhere.

RECOMMENDATIONS

Recommendation 3.2.1:

The Australian Government provide continuing support to the Committee to:

- a. enable it to effectively conduct its review processes
- b. consult the Government on the implementation of the Government's response to the Committee's previous report, and
- c. meet at least bi-annually with the Department and other agencies to ensure information requirements for the next review are achieved.