



Australian Government

Australian Government response to the Regional
Telecommunications Independent Review Committee report:

Regional Telecommunications Review 2015

February 2016

Introduction

The Government recognises the important role that telecommunications play in the social and economic development of regional Australia and is committed to ensuring that Australians living and working in these areas have access to appropriate levels of service.

A Regional Telecommunications Independent Review Committee (the Committee) is appointed every three years under Part 9B of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* to review the adequacy of telecommunications services in regional, rural and remote Australia. The 2015 Regional Telecommunications Review (the Review) is the third such legislative review.

The Committee was appointed in May 2015 and comprised Ms Deena Shiff (chair), Mr Robin Eckermann, Ms Su McCluskey and Ms Georgie Somerset. Consultation commenced with the release of an Issues Paper on 17 June 2015, followed by broad discussions with industry, peak bodies, business, consumer groups and the general public. A total of 426 submissions were received during the consultation phase. The Committee's final report, *Unlocking the potential in regional Australia*, puts forward 12 recommendations for regional telecommunications and was tabled in Parliament on 22 October 2015.

The legislation requires the Australian Government to prepare a statement of response to these recommendations within six months of receipt. This statement satisfies that requirement.

Key themes of the Review

Since the last review in 2012, the Australian telecommunications environment has continued to evolve. For example, there has been significant ongoing investment by the Government in the National Broadband Network (NBN) rollout, investment by both the Government (via the Mobile Black Spot Programme) and the private sector in mobile infrastructure and the availability of a wide range of new telecommunications services. This continued evolution has led to communications devices becoming ubiquitous and embedded in many aspects of modern life.

In reviewing the adequacy of telecommunications in regional Australia¹, the Review was asked by the Minister for Communications to have particular regard for the NBN, the Mobile Black Spot Programme, and whether current consumer safeguards continue to be appropriate as the NBN is rolled out.

In line with this, the Review identified the following themes:

- mobile coverage continues to be important to Australians living and working in regional areas;
- co-investment and leveraging of existing and planned infrastructure could maximise opportunities to improve telecommunications; and
- existing consumer regulatory safeguards are of declining relevance in a post NBN environment and as consumer preferences and expectations continue to change.

Government response to the Review

The Review acknowledges that telecommunications has and will continue to shape the lives and improve the economic opportunities of people in regional Australia.

¹ Reference to *regional Australia* includes regional, rural and remote Australia.

Importantly, this current Review comes at a time when the Government is already delivering very significant improvements to telecommunications services in regional Australia through the rollout of the NBN and funding of the Mobile Black Spot Programme.

The full impacts of these decisions in regional areas is only just beginning to be realised, and the process of transformation will continue to gather momentum over the next few years.

The Government acknowledges the strong support in the Review for these investments. The response to the Review inevitably reflects that the Review has come at a point in time which is only part way through this transformation process.

National Broadband Network

NBN Co Limited (NBN Co) was established as a Government Business Enterprise and is building and operating the NBN on a commercial basis at arm's length from the Government. The NBN will deliver very fast broadband to all Australian premises using fibre to the premises, hybrid fibre coaxial, fibre to the node/basement, fixed wireless and satellite technologies. This mix of technologies should result in the NBN being fully completed by 2020.

The Review found that regional Australians have the most to gain from the arrival of the NBN's higher bandwidth and higher quality broadband services that will make significant improvements to lifestyle and business productivity.

The NBN fixed wireless and satellite broadband services will allow almost one million households and businesses in rural, remote and urban fringe areas of Australia to have access to download speeds of up to 50 megabits per second (Mbps) and upload speeds of up to 25 Mbps, regardless of where they live. This is a substantial improvement on current broadband services and will allow regional, rural and remote communities to better participate in the digital economy.

Substantial progress has been made over the past 12 months in rolling out the fixed wireless and satellite networks, with these scheduled to be largely completed by the end of 2017–18. Sky Muster, the first of two NBN satellites, was launched on 1 October 2015 and will provide coverage to over 400,000 premises from the second quarter of 2016. The rollout of the fixed wireless network continued to accelerate, reaching 268,000 premises in 2014–15, and will expand to reach 535,000 premises by the end of 2017–18. A 50 Mbps download service was launched over the fixed wireless network on 7 December 2015.

As acknowledged by the Review, the existing commitments of the Government to investment in rural and regional broadband services will see significant economic and social benefits in regional communities, including in education, health, business, and emergency services.

Mobile Black Spot Programme

The Government is also improving mobile phone coverage in regional Australia through the Mobile Black Spot Programme.

Round 1 of the Mobile Black Spot Programme, a \$100 million investment by the Government, will deliver 499 new and upgraded mobile base stations across regional Australia. The mobile base stations will provide new and upgraded handheld coverage to 68,600 square kilometres. In addition, over 150,000 square kilometres of regional Australia will receive new external antenna coverage and over 5,700 kilometres of major transport routes will receive either new external antenna or handheld coverage. The total that will be invested under Round 1 of the Mobile Black Spot

Programme is \$385 million, which includes co-funding from five state governments – NSW, VIC, QLD, WA and TAS. A number of local governments, businesses and community organisations have also agreed to co-funding arrangements with successful applicants.

The Government has committed a further \$60 million for Round 2 of the Mobile Black Spot Programme, with funding to be available over a two year period from July 2016. The Government will again seek to leverage additional funding from the mobile network operators and other levels of government, with a view to maximising the number of new or upgraded base stations to be delivered.

Regulatory Reform

The NBN will provide for universal broadband infrastructure for all Australians. The Government is developing legislation to introduce a statutory infrastructure provider of last resort regime. Under this statutory regime, NBN Co (or in certain areas, potentially other infrastructure providers) will be required to connect premises to its network. This means that consumers will have a guarantee of an infrastructure connection. Retail service providers (RSPs) will be able to offer voice and data services to customers using that infrastructure.

As a result of these changes, it is appropriate that telecommunications consumer protection regulation is examined. Much of the existing regulation was predominantly designed for a fixed-line voice environment where Telstra was the major integrated provider of both wholesale and retail fixed line services. The rollout of the NBN which will result in all Australian premises having access to a wholesale broadband network, with RSPs able to compete on an equal footing, and offer a range of broadband, data and voice services (delivered over VOIP technology), together with more significant availability of mobile services, significantly changes the landscape in which regulation operates.

Responses to individual recommendations of the Review

Satellite service optimisation

Recommendation 1 – To optimise finite LTSS capacity, NBN Co should actively manage demand, prioritise traffic and support the caching of content using satellite management best practice and innovative software. If restrictions on wholesale satellite operations preclude improvements to end user experience, those restrictions should be removed.

Recommendation 2 – NBN Co's Fair Use Policy and wholesale tariffs should be structured to give RSPs sufficient price and product flexibility so that the detrimental impact of shaping and suspension of LTSS services can be minimised. Further, NBN Co will need to work closely with RSPs to improve their support of LTSS customers. Customers should be able to monitor their data consumption and be alerted before they reach their data limits.

Response:

The Government is implementing changes to address the issues identified in these recommendations.

The Government has committed to providing access to fast broadband to all households and businesses in Australia, regardless of where they are located. To meet this commitment, the NBN will use next generation satellite technology to provide access to over 400,000 premises in rural, regional and urban fringe areas. When rolled out, the NBN satellite service will have a total capacity of 135 Gigabits per second (Gbps) and will be able to offer individual end users with download speeds of up to 25 Mbps and uploads of 5 Mbps. By comparison, the Interim Satellite Service was only able to offer download speeds of up to 6 Mbps.

At the request of Government, the new NBN satellite service will include measures to optimise the capacity available on the satellite and to manage demand. NBN Co is:

- finalising an improved Fair Use Policy with RSPs which will require them to ensure their customers do not use NBN Co products or services in an excessive or unreasonable manner. Consultation with retail service providers occurred in December 2015 on potential changes to the Fair Use Policy and an updated policy will be released shortly;
- committed to working with industry to examine solutions to manage caching of content; and
- in active discussions with industry regarding the availability of a distance education product over the satellite service. The proposed product, to be delivered by RSPs, will allow end users to use a second port with a separate data allowance for remote students resulting in more generous data limits for remote schools and priority options for education services.

NBN Co has already been able to further optimise its satellite products and will be able to offer wholesale plans with significantly more capacity than originally expected. As part of these optimisations, NBN Co will be in a position to offer wholesale data allowances of up to 150 gigabytes per month.

The Committee also commented about restrictions on the NBN network operations. The Government's stated policy is that NBN Co should operate at the lowest practical level in the network stack. This already provides flexibility to operate at a higher level if needed and to provide additional functionality for the satellite service.

There may be instances on the satellite service where NBN (as the satellite operator) needs to implement certain technical solutions such as new caching techniques, necessitating NBN to operate at higher levels of the network stack. In other instances, for example, the provision of necessary operational and business support systems (OSS/BSS), there may be efficiencies in NBN providing these services.

The Government supports customers being able to effectively manage their data consumption and encourages all RSPs to make available data monitoring tools and provide timely alerts to their customers. Under the Telecommunications Consumer Protections Code, an industry code registered with the Australian Communications and Media Authority (ACMA), carriage service providers are already required to provide spend management tools and usage notifications. In combination with improved Fair Use Policy controls, these arrangements are expected to help RSPs reduce the impact of shaping or service suspension on LTSS end-users.

Fixed Wireless footprint

Recommendation 3 – To give the best possible outcome for regional users, NBN Co should where practicable extend the boundaries of its Fixed Wireless footprint as a substitute for satellite.

Response:

The Government notes that existing policy already allows NBN Co to match the right technology to the right location. This approach will see the network finished as soon as possible at the least cost to taxpayers.

In December 2015, NBN Co announced that it had decided to expand its fixed wireless and fixed line networks by a further 40,000 premises to reduce demand on its satellite network. This extension of its fixed wireless network has contributed to broader efforts to optimise its satellite service for end users. As a result NBN Co has released a revised wholesale satellite service product which includes increased peak download allowances from those originally planned. This will allow retail service providers to offer more consumer choice with a wider range of retail products at different price points.

Upgrades to state-based networks

Recommendation 4 – The Australian Government should consider co-investing with state governments and carriers to support upgrades to regional state-based public safety wireless networks that could also deliver mobile coverage improvements.

Response:

The Government notes this recommendation.

The Government is considering the findings of the Productivity Commission's study into the best way to secure a mobile broadband capability to meet the long term needs of Australia's public safety agencies as they relate to state police, fire, ambulance and emergency services. This report was released on 12 January 2016 and has analysed the most cost-effective combination of private and public inputs, services and expertise to deliver capability.

Preconditions for public funding of infrastructure

Recommendation 5 – To make the most efficient use of Australian Government funding of major public infrastructure in regional Australia (such as transport corridors and utility facilities), there should be a requirement to incorporate a telecommunications deployment or upgrade plan as a precondition of that funding.

Response:

The Australian Government is broadly supportive of initiatives to integrate infrastructure and land use planning to ensure taxpayers money is spent efficiently and the incremental costs of additional infrastructure is reduced.

The Government considers that incorporation of a telecommunications deployment or upgrade plan in major public infrastructure project proposals should be encouraged, but not required as a mandated precondition of funding. Such a requirement would not be of benefit in all instances, for example where there is already sufficient telecommunications infrastructure in place, or where the costs of including new telecommunications infrastructure would outweigh the benefits.

Improvement to infrastructure planning is a key priority for the Government. Infrastructure Australia has developed a 15 year *Australian Infrastructure Plan* (the Plan). This plan was recently released and outlines Infrastructure Australia's views on priorities in infrastructure, including priorities for planning reform. It builds on the evidence-base of the *Australian Infrastructure Audit* which confirmed existing and emerging gaps in Australia's nationally significant infrastructure and identified key drivers of demand for infrastructure such as population growth. The Government will consider the plan's recommendations and will develop a response in 2016. The response is likely to consider issues such as the integration of land use and infrastructure planning, as raised in the Audit.

Use of existing infrastructure

Recommendation 6 – Given the lack of information on underutilised regional assets, Infrastructure Australia is encouraged to collect and make available public data and information about any infrastructure that might be of assistance to investors in telecommunications. This might include dark fibre or towers with a power source in other sectors such as gas and electricity.

Response:

The Government considers that the role of Infrastructure Australia is to provide robust, independent advice on Australia's current and future infrastructure needs to all levels of government. The Government's key priority for Infrastructure Australia is to focus on strategic long-term planning to improve project selection, thereby assisting governments in the prioritisation and timely delivery of projects that will deliver economic growth across Australia.

The Government (through other relevant agencies such as the Department of Communications and the Arts and the ACMA) will continue to collect telecommunications data and where possible make it publicly available under the Government's public data policy. Some data will be not be able to be made available due to security issues associated with the disclosure of information regarding critical infrastructure assets.

There are also private sector data providers which provide commercial access to telecommunications network data. Further, operators of telecommunications networks are also able

to engage on a commercial basis with other utility providers to identify opportunities for co-location of infrastructure.

Leveraging NBN infrastructure

Recommendation 7 – The Australian Government should leverage its investment in the NBN by enabling NBN Co to make better use of its infrastructure in regional Australia. NBN Co should be permitted, and resourced, to provide carrier-to-carrier products that could include satellite backhaul, terrestrial backhaul for mobile carriers, and options to support new and niche infrastructure providers.

Response:

The Government considers that the NBN has been established to deliver high-speed broadband across Australia and to provide a wholesale-only, open access platform that facilitates a competitive retail environment. The Government has set a Commonwealth funding equity limit to assist NBN Co to meet its Statement of Expectations.

There are already a number of areas where the Government's investment in the NBN is being leveraged by private sector operators to deliver additional telecommunications services in regional Australia. For example, it is the Government's policy under the Mobile Black Spot Programme to encourage carriers to consider co-location of infrastructure on NBN fixed wireless towers. The cost of delivering improved mobile coverage can be reduced by co-locating mobile antenna equipment on existing NBN infrastructure, and mobile network operators have proposed a number of co-location sites for the rollout of Round 1 of the Programme. Under Round 2 of the Programme the Government will continue to encourage applicants to consult with NBN Co to identify all possible opportunities to achieve mutually beneficial outcomes via the use of NBN facilities.

NBN Co is also developing a Cell Site Access Product. This product is designed to operate wherever the NBN has a fibre footprint using a dedicated fibre link taking mobile (voice and data) traffic from the mobile operator's tower back to the related NBN Point of Interconnect where it can connect with the mobile operators' backhaul services. While the Cell Site Access Product will enable NBN Co to leverage the Government's investment to improve telecommunications services in regional areas, the Government also considers that the broader provision of terrestrial backhaul services can be left to commercial forces. More broadly, a regulated pricing regime for the provision of terrestrial backhaul is overseen by the Australian Competition and Consumer Commission.

The Government's current policy settings permit NBN Co to offer satellite backhaul of terrestrial mobile services on a commercial basis where unmet demand is evident. However NBN Co will have regard to the commercial viability of such options as well as its primary responsibility of putting its two Ka-band satellites to their highest value use, and in so doing ensure reliable, high-speed broadband is available to Australia's most under-served and remote areas.

Consumer safeguard reform

Recommendation 8 – Current consumer safeguards as they relate to the STS are increasingly irrelevant. The Australian Government, in consultation with industry and consumer groups, should develop a new Consumer Communication Standard for voice and data which sets technology neutral standards in terms of availability, accessibility, affordability, performance and reliability.

Recommendation 9 – The Australian Government should establish, in consultation with industry and consumer groups, a new funding mechanism, the Consumer Communication Fund. The Fund would replace the current levy and support loss-making regional infrastructure and services with scope to include subsidy arrangements for the non-commercial NBN services (Satellite and Fixed Wireless) as well as social equity elements that merit funding under the proposed Consumer Communication Standard. The design of the Fund should reflect the following principles:

- Technology neutrality
- Contestability
- Transparency
- Economic efficiency
- Sustainability

Response:

The Government agrees that there are arguments that the current consumer safeguard regime is increasingly outdated, given the evolution of the telecommunications markets, including the rollout of the NBN. Current concepts and interventions reflect a fixed line voice telephony environment delivered through a vertically integrated Telstra which provides access to its wholesale networks to other carriers.

The Universal Service Obligation (USO) and the Customer Service Guarantee (CSG), although stated to regulate service delivery, actually regulate both infrastructure provision and service delivery. This has not impeded the effectiveness of the regulation in an environment where Telstra is the USO provider and also the owner of the fixed line infrastructure, though is likely to create issues in a post-NBN environment where RSPs, including Telstra as the USO provider, will largely be providing services over the ubiquitous NBN wholesale network. In that environment, fixed line connections and availability required under the USO and CSG will rely on RSP and NBN co-operation, processes and systems. There is also a question of whether a service delivery obligation is required at all if a regulatory obligation is imposed on NBN to provide the infrastructure required for service delivery.

Communications products and services are becoming increasingly diverse and varied and are not necessarily delivered via fixed line infrastructure. Barriers to entry for service providers have also diminished. Increased competition alone may, as a consequence, address consumer expectations. If not, a review of current regulatory arrangements will need to look at both what remains relevant in the future from the existing regime but also what new issues consumers may face and whether, and how, regulation needs to be applied to mitigate them.

Currently, major consumer safeguards are funded through a mix of industry levy and direct government funding. This is in addition to the Government's significant investments in building the NBN and, with industry and other levels of government, addressing mobile black spots.

The Review has proposed a model that could be pursued in the resetting of the regulatory framework involving a single standard covering availability, accessibility, affordability, performance

and reliability. The Review also proposes that industry levy and direct funding arrangements be combined into a single Communications Fund.

The Government considers it premature to determine the appropriate model for both the future regulatory arrangements for the telecommunications retail sector and its funding arrangements. That said, the Government agrees that adjustments to the current regime are warranted given changes to available broadband technologies and consumer expectations.

To assist in developing a reform model, the Government has requested the Productivity Commission undertake a review into the future requirements for universal services regulation in an evolving telecommunications market with the Terms of Reference to be issued early in 2016.

The Government also proposes, in parallel to the Productivity Commission review, to consider further during 2016 the overall framework for consumer safeguards, including what future retail level safeguards are necessary (if any) and how these are best structured, delivered and funded as well as transitional arrangements.

In addition, the Government is considering the Bureau of Communications Research's advice on the non-commercial losses expected from building and operating NBN satellite and fixed wireless services and options for funding these losses via contributions from owners of high-speed broadband access networks.

This work, along with the work undertaken in this Review, will allow the Government to determine the appropriate regime to apply in future.

Consumer representation

Recommendation 10 – Recognising the significant changes in the regional telecommunications market, the Australian Communications Consumer Action Network should continue to make representations on the affordability and accessibility of services, including the promotion of tools to help consumers make more informed decisions regarding their services.

Response:

The Government continues to provide funding to support the Australian Communications Consumer Action Network (ACCAN) within the terms of the current deed of agreement. ACCAN is funded under section 593 of the *Telecommunications Act 1997* and meets its obligations under the Act by representing the views and interests of telecommunications consumers and educating consumers and organisations on telecommunications issues.

Consumer information provision

Recommendation 11 – NBN Co and the Department of Communications should examine ways of providing better information on the timing and the range of technologies being rolled out across Australia.

Response:

The Government has already implemented changes to address the issues raised. It is the Government's policy, as reflected in its Statement of Expectations for NBN Co, that a high degree of transparency will be provided by NBN Co in its communication with the public and with Parliament.

In mid-2015 NBN Co released a comprehensive Corporate Plan, outlining the company's progress in rolling out the NBN. That plan showed that the NBN remains on track to meet its target to complete the rollout of the network by 2020, but that substantial risks remain and will need to be managed. NBN Co also released a three-year construction plan on 16 October 2015. The three-year construction plan outlines the construction commencement date for premises in the plan by month and by technology, for the first six months. It also provides quarterly information for the subsequent 12 months and by half-year for the next 18 months. This three-year construction plan will be updated quarterly to include new areas and any variations as a result of planning processes.

To improve information to all Australians, NBN Co has added an online registration function on its website to allow people to register to receive tailored email notifications when the rollout is starting in their area. NBN Co has planned further enhancements to improve the accuracy of map and address features, particularly for rural users who have issues with address matching and premise location. The more user friendly site will go live in the first half of 2016.

Data collection

Recommendation 12 – In order to improve the understanding of the changing circumstances of regional telecommunications, benchmark data on availability and affordability of broadband data and voice services (including mobile services) should be collected and reported annually. This may also enable future reviews to be undertaken less frequently, but on a more informed basis.

Response:

The Government has established the Bureau of Communications Research as an independent economic and statistical research unit within the Department of Communications and the Arts to support evidence-based policy making in the communications sector.

The Bureau of Communications Research, which has dedicated spatial data competence, is well placed to analyse regional telecommunications within the context of the broader Australian telecommunications market and will investigate options to add to existing Government data sources for the benefit of any future review.

Considerable data is already available, collected by a number of agencies including:

- the Australian Bureau of Statistics on a range of indicators such as socio-economic disadvantage (by local government area), consumption, population, and regional statistics;
- the Telecommunications Industry Ombudsman on consumer complaints; and
- the ACMA, from annual reports and research.

Based on the outcome of this work, the Government will give consideration as to whether future reviews may be undertaken less frequently.