



**Australian Telecommunications
Users Group
Regional Conference
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Regional Regulatory Issues

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Introduction

Thank you for inviting me here today.

It's been an eventful 12 months since I last addressed this forum. In that time, we have seen the Government passing a major legislative package, management changes from some major telecommunication companies and major strategic announcements from them. Other telecommunications companies have started to accelerate the roll-out of their own DSLAM infrastructure to deliver broadband services, there has been considerable activity around wireless technologies such as WiMax, and in the mobiles area, considerable progress has been made in the roll-out and take-up of 3G services.

For its part, the ACCC has continued to play an active role in protecting and promoting telecommunications competition, with the ultimate objective of delivering users the highest quality services at the lowest possible cost.

I thought I would start by talking about some of the major issues in the telecommunications sector, and how they might relate to regional telecommunications users. These include access to broadband services, the Government's Connect Australia package, the ACCC's review of fixed services regulation, the pricing of regulated services such as backhaul transmission, and Telstra's plans to roll-out a new national 3G mobile network and close down its current CDMA network.

Broadband availability in regional areas

I mentioned last time I spoke to this audience that arguably, the potential for broadband to deliver benefits for local businesses has always been greatest in regional areas. A major issue for regional communities is broadband access which is no longer seen as discretionary.

Indeed it is fair to say it is critical to the viability and competitiveness of rural communities and businesses.

The ACCC's Broadband Snapshot shows that ADSL – delivered over Telstra's copper network - is by far the most widely used broadband technology nationally.

Clearly, though, with degradation of service quality over longer copper line lengths (eg 2-3km), DSL is a less suitable technology in some parts of regional Australia.

However, wireless technologies such as WiMax and 3G are increasingly capable of offering an array of more advanced services to retail customers and offer some potential to make inroads into the dominance of the incumbent fixed-line network.

Satellite broadband should also remain a suitable option for delivering broadband to sparsely populated regional areas where distance or geography makes it either uneconomic or impractical to deliver other wireless, cable or DSL services.

In a broad sense, the ACCC is encouraged by the growth and level of broadband uptake in regional areas with an increased number of regional and rural towns connected to broadband services via terrestrial wireless networks.

The gap is closing between metro and regional broadband take-up. It has been reported that two years ago broadband take-up in regional areas was just five per cent while in metro areas it was 11 per cent. Today regional take-up is running at 19 per cent and in metro areas it is 21 per cent.¹

Broadband access underpins the infrastructure investment plans of most carriers licensed by ACMA in 2004-05. We also know that wireless broadband accounts for the majority of regional broadband network operations. ACMA reported that 26 of the 40 new carrier licensees propose to deploy wireless broadband access technologies.²

Furthermore, the ACCC has recently received detailed advice which models the costs of deploying wireless solutions - such as WiMax and 3G - to provide voice and broadband services in rural areas. This work suggests that the cost of wireless technologies would be no more than \$50-\$60 per service for most rural customers - significantly below Telstra's corresponding estimates for the copper network.

It remains an open question as to what extent these new networks can viably compete with broadband services delivered over the existing ubiquitous fixed-line network into which substantial costs are already sunk. It is clear, however, that copper is not nearly as effective an access technology in those areas where there are long copper lengths to end user premises.

¹ Senator the Hon Helen Coonan – Media Release- November 7 2005

² ACMA, *Telecommunications Performance 2004-05*, November 2005.

In general, competition remains best driver of service availability, innovation and lower prices for end-users. However, the ACCC recognises that in some areas it may not always be economic to have multiple providers. A concern also remains that fragmentation of regional competition might limit the capacity of smaller providers to negotiate terms and conditions of interconnection with larger providers, given the network externalities associated with telecommunication services..

In this context, I note the Government has made a major commitment to the ongoing provision of regional telecommunications services through its Connect Australia program, and in particular through the Broadband Connect component of that package.

The Minister announced yesterday at this conference that one of the objectives of the funding from the Broadband Connect program would be used to stimulate development of a competitive wholesale network in regional Australia. The funding will involve the use of a mix of current and emerging technologies such as wireless, fibre and copper. Clearly this presents a real opportunity for sustainable infrastructure competition in regional Australia and has the potential to make competitive investment in, for example, wireless technologies a more viable option.

The Minister has said that Government support would be dependent on some basic requirements, including that fair and reasonable wholesale access must be provided. A further requirement would be that such access allows competitors to customise their service and allows competition on service quality functionality as well as price.

Given the ACCC's objectives of promoting competition the Government has asked the ACCC to participate in the development and implementation of this program, an opportunity welcomed by the Commission.

Evolving markets

In circumstances where markets are changing in this way, though, regulation needs to be adaptable to stay relevant. The nature of the existing regulatory framework, and the ACCC's application of it, means that regulation is and must remain targeted at the key bottlenecks. In the current environment, it is therefore timely to look forward and consider the interactions in an holistic way.

With this in mind, the ACCC recently launched a broad-ranging review of the regulation of fixed network services. Fundamental issues for consideration will be:

- To what extent can emerging competitive options break down the historical network bottlenecks?; and
- What, therefore, is the optimal combination of service declarations to best promote competition?

Addressing that first question necessitates a consideration of alternative technologies – eg, wireless, HFC and fibre in particular – with a view to seeing where regulation could be wound back. On this score, it seems that some technologies may at this time, demonstrate some promising developments, still provide only niche network offerings rather than wide-scale alternatives to the ubiquitous copper network.

The competitive environment could also differ on a geographic basis. As already discussed, wireless broadband might be suitable for areas where population density is low, but may be less cost-competitive in metropolitan areas, or may encounter spectrum capacity constraints. Differentiating regulation on a geographic basis is not without precedent – for instance, the ACCC has previously withdrawn from regulation of inter-city transmission capacity, and the local carriage service in CBD areas.

Ultimately, a key objective of the current review is to ensure that the overall regulatory environment does not hinder investment in innovative technologies whilst still providing competitive safeguards where they are necessary.

Transmission services

Last year I indicated that the ACCC was undertaking further work on the approach it might take to regulating transmission backhaul in regional Australia. At that time, the ACCC had not had any direct experience in regulating these services, notwithstanding the fact that from time to time there had been some dissatisfaction publicly expressed by some members of the industry regarding access to the services.

The reason the ACCC's involvement had been limited was that it is generally only called on to arbitrate the terms of conditions of access when two providers cannot reach a commercial agreement on what the terms should be, or when an access provider lodges an access undertaking with the ACCC. Until recently, neither of these actions had happened in relation to transmission services.

These services are important, however. They are a critical input into the supply of broadband services to consumers, because if firms are not able to connect – at competitive prices - their local access network into their broader networks and the internet at large, then they are not in a position to offer services to consumers at the retail level.

Since I last presented to this forum, though, there have been some further developments. First, the ACCC has concluded a consultation process on the competitive dynamics in regional transmission markets, in which we spoke to numerous service providers about the cost and availability of transmission services in regional areas.

The key finding from this exercise was that it is extremely difficult to develop a generic pricing model from which to derive indicative prices for regional

transmission given the wide variability in costs, demand, competitive conditions and geography between different regions.

Instead, the ACCC concluded that the most appropriate means of dealing with regional transmission pricing was by directly setting prices for specific regional routes in cases where access providers and access seekers have been unable to reach commercial agreement and have come to the ACCC for arbitration. In this way the specific demand, geographic and competitive characteristics of each regional route can be taken into account in arriving at appropriate prices.

The second development is that the ACCC now has before it an 34 access disputes in relation to transmission services. The dispute covers various regional routes, and the ACCC has sought views from the parties on the most appropriate pricing approach for the establishment of prices for them.

To give you a feel for the level of analysis that might be required to establish a cost based price for specific routes, the ACCC might need to consider:

- the most efficient commercially available efficient technology for providing the services;
- the prospective volume of demand on the particular route in question;
- what is an 'efficient' level of excess capacity;
- the costs of providing the necessary capacity;
- the appropriate valuation of capital inputs and cost of that capital; and
- the allocation of any shared costs.

Mobile Regulation in Australia

Before concluding, I'd like to talk a little about mobile telecommunications.

One of the suggestions Telstra has made recently is that newer mobile services such as 3G "may be regulated identically to the old copper network".

I should point out that there are a couple of reasons why the ACCC does not regulate – mobile services in the same way it does fixed-line services.

It is the case that the ACCC's view is that the retail mobile services market is not fully competitive – due to the need for national coverage and the significant sunk costs associated with effective market entry.

However, as the ACCC has said for some time now, the retail mobile services market is exhibiting more encouraging market outcomes than the markets for fixed-line telecommunications services. The ACCC has observed that there have been some encouraging signs of more vigorous competition in retail mobile services over the 2004-05 financial year. By way of example, in the retail mobile services market, recent analyst assessments indicate Telstra has a market share of around 43 per cent of the retail mobile services market, compared with a market share of around 71 per cent in the supply of fixed voice services.

Further, in relation to fixed-line services up to 87 per cent of Australian homes and businesses rely on voice services provided via access to Telstra's copper customer access network (CAN). In comparison, there is substantially more infrastructure based competition in relation to the supply of mobile services.

Currently, Telstra, Optus, and Vodafone all operate their own 2G and 2.5G GSM mobile networks, covering approximately 96 per cent of the population. Hutchison also operates its 3G network in Sydney, Melbourne, Brisbane, Gold Coast, Adelaide, Perth and Canberra, with its customers roaming on Telstra's 2G GSM network outside those areas. Fundamentally, the market structure, comprising four mobile networks, is more inclined towards delivering competitive outcomes in the downstream mobile services market than the markets for fixed line services.

The decisions of Telstra and Hutchison,³ and Vodafone and Optus⁴, in 2004 to enter into infrastructure sharing arrangements in relation to the radio access networks associated with the deployment of 3G mobile networks – and the implementation of these decisions in 2005 and 2006 – also show that investment continues to occur in mobile telecommunications infrastructure.

As you may be aware, in June 2004 the ACCC announced its decision to continue the declaration of a mobile terminating access services and determined that it would revise its pricing principle for this service to one that involves the price of the mobile terminating access service following an adjustment path such that there is a closer association of the price and underlying cost (total service long-run incremental cost (TSLRIC)) of the service.

It should also be noted that this regulation of mobile voice termination applies to 3G networks as well as to 2G.

In December 2004 the ACCC concluded its inquiry into domestic inter-carrier roaming services. At that time, the ACCC's conclusion was that it would not declare a roaming service, rather it would reserve such a decision until the competitive issues crystallised around the development of the 3G networks.

The ACCC also indicated that it would monitor developments with respect to the provision of roaming services provided by means of CDMA mobile networks, due to concerns regarding certain structural features in the market. The intention of this proposal was to provide information on the terms and conditions upon which domestic inter-carrier roaming services are supplied, and to ensure that changes to the mobile market could be assessed as developments occurred in network architecture.

³ See, for instance, ACCC media release, *ACCC Not to Oppose 3G Radio Access Network Sharing Arrangement Between Hutchison and Telstra*, 10 December 2004.

⁴ See, for instance, ACCC media release, *ACCC Not to Oppose 3G Mobile Radio Access Network Sharing Agreement Between Optus and Vodafone*, 14 December 2004.

The ACCC is currently in the process of establishing what wholesale services, and in particular what roaming services, it is proposed will be offered during and after the transition from 2G to 3G networks.

I should emphasise, though, that the ACCC's role here is to ensure the ongoing integrity of competition, rather than to ensure a particular level of mobile service coverage. Rather, coverage and transition issues associated with Telstra's announcements regarding the shutdown of its CDMA network and move to a 3G network are primarily being considered by the Government and ACMA.

Conclusion

I would like to conclude by saying the ACCC does not hold strong views on the direction – in terms of technologies, service offerings and retail pricing – that industry should take in regional Australia.

However, the ACCC holds the view that evolution should occur via a competitive process as much as possible, as ultimately this will deliver the best outcomes for customers in terms of availability, quality and price. The ACCC will continue to work towards promoting this efficient competition to the best of its ability.

Thank You