



Speech to Australian Telecommunications Users Group Annual Conference 2009

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Good morning and thank you for the opportunity to join you here today at ATUG's 25th annual conference, ATUG 2009.

Acknowledgements ... Senator Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, David Swift the Chairman of ATUG, Rosemary Sinclair the Managing Director of ATUG, other special guests and speakers, Ladies and Gentlemen ...

Firstly, let me start with some apologies. Hopefully, I don't have to apologise for the speech that I am about to give ... only time will tell on that front ... but there are some other factors on which I must extend some regrets ...

I bring the apologies and best wishes of the Shadow Minister for Broadband, Communications and the Digital Economy, Senator Nick Minchin, who I have the pleasure of representing here today. Nick asked me to convey his very sincere regrets that he was unable to join you here today and his best wishes for an extremely successful conference.

I know that Nick and all members of the Liberal and National Parties look forward to working very closely with ATUG into the future, both in the lead up to the next election and, as any good, young political optimist should say, in a future Turnbull Government after the next election.

I also extend apologies that neither Nick nor I were able to attend last night's Gala Awards Evening. I am pleased to hear the evening was a great success, extend my heartfelt congratulations to those who were awarded, including Senator Conroy himself, and hope that a good night was enjoyed by all. I see that sadly, for anyone who perhaps enjoyed too good a night, the lighting is a little too bright in here this morning for you to catch up during this, your second consecutive speech from a politician!

Lastly, let me apologise that this will not be an overtly technical speech, nor will it be a speech laden with the many intriguing acronyms of the communications sector. Less than two years ago when I first entered the Senate I was a total novice to the communications sector. I was just a humble user, a simple consumer ... someone who more quickly embraces new technology than his wife (she would call the gadgets), but much more slowly than a couple of his younger staff.

Being a very run of the mill, Australian communications consumer probably means it is very apt that my first outing to speak to a major conference on communications issues is to this, the Australian Telecommunications Users Group.

For the 'end users' are the people who matter most in the communications sector. Sure, we spend a lot of time talking to and talking about the many service providers in this industry ... those who make, build, supply or sell the many products, technologies, hardware, software or services that are accessed across a range of media and platforms.

However, as policy makers we must always be very aware of the ends, exactly what it is we seek to achieve, rather than becoming blinded or obsessed by the processes or the means of getting there. In the communications sector that requires us to always have the interests of users at the forefront ... be they mums, dads and the kids at home, or the many businesses of all sizes – many of whom are represented here today – delivering the best possible outcome for you, the communications users, must always be at the forefront of our thinking.

It is here that I and the Liberal and National Parties are gravely concerned by the approach of the now, not so new government. This is especially the case in regards to the much feted National Broadband Network.

With every passing day, week and month communications consumers are being left behind by the Rudd Government. Prime Minister Rudd and Minister Conroy were high on lofty rhetoric and grand promises before the election, but have subsequently become so blinded by process and so bogged down by the failings in those grand promises as to have spent the last sixteen months effectively rebooting themselves and their processes over and over again.

While they made it sound so easy in 2007, here we are, 16 months after the election of the Rudd Government, and not a single deadline of the NBN process has been met.

Far more significantly, no new services have come online as a direct result of Labor's broadband policy. If anything, the NBN process has achieved nothing but to hold up and delay investment in broadband, especially fixed line broadband. Until Telstra's response to their exclusion from the NBN process this week – which I will touch on later – virtually everyone has adopted the 'wait and see' approach ... which is hardly surprising when an uncertain regulatory future is coupled with a potential \$4.7 billion competitor subsidy.

Damning, but true, the only contributions the Rudd Government have made to broadband in this country have been to stall investment and to cancel the OPEL rural and regional broadband network.

OPEL was targeted to deliver new, metro equivalent broadband services to up to 900,000 under serviced premises across the country by the middle of this year. That's hundreds of thousands of disadvantaged Australian consumers – households and businesses – in regional Australia who could have had far better broadband access by now. Instead, thanks to the Rudd Government, they don't have better broadband access and they don't look like they will for a long time to come.

Often in politics it pays to look back on what has been said and promised previously, so I took a look at some of the commitments that Minister Conroy made about the NBN, a number of them here, at your conference last year, others while as the Shadow Minister at your pre-election breakfast in November 2007 ...

Last year Minister Conroy told you that:

"It is the Government's intention to have a build partner in place and to begin construction by the end of 2008."

This promise was a key component of Labor's NBN election policies. This time last year we were going to have submissions to build the NBN submitted by July, a selection made by September or October, the contract signed and construction underway by the end of the year.

Despite being warned about the risks of this timetable, which had already slipped by a couple of months since the election, the Rudd Government went ahead and detailed it in their Request for Proposals documentation released last April. They doggedly stuck to this timetable for six weeks, before eventually accepting that providing the necessary network infrastructure to bidders would take much longer than expected ... a further four month delay to the process ensued.

Far from construction commencing by the end of 2008, submissions were only just received by the end of 2008.

Back in 2007 then Shadow Minister Conroy told your pre-election breakfast that the NBN:

"... has been fully costed at \$8 billion dollars using detailed calculations of the number of nodes required to deliver the fibre network."

However, have any such full costings ever been released by the Government? No. Instead we have seen wild speculation that, at times, has pegged the cost at more than three times this figure. Have any detailed calculations been provided in the RFP documentation? No. Has the Government provided any clear analysis of the economic return Australia can expect to derive from the expenditure of \$4.7 billion? No.

We welcome Telstra's recent analysis of some of the national economic benefits that will flow from their increased, private sector investment. We just wish the Government had been equally thorough and actually tested its 'magic numbers' – \$4.7 billion, 98% and 12 megabits – to ensure they actually provide the best value for money for Australian taxpayers.

Labor's broadband policy will celebrate its second birthday in just eight days time. A lot has happened in the world and in Australia since Stephen Conroy and the then shiny new Labor Leader Kevin Rudd launched their policy ... and I don't just mean a change of government.

We used to be a country with large surpluses and no Commonwealth Government debt. But we are now forecast to run budget deficits around \$30 billion every year so far as the budget forward estimates stretch. With the rate of current spending our borrowings will be headed towards the Government's newly approved credit card limit of \$200 billion in no time.

Meanwhile, the crisis that has afflicted global financial markets poses unknown, but likely significant risks, to the private sectors ability to raise capital for the NBN.

At the same time we have witnessed a rapid advancement in communications technologies. Wireless broadband subscriptions have doubled in the past 18 months, showing a rapid embrace of more portable platforms. The perils for the Government of trying to 'pick winners' (like fibre to the node) from the race between many and varied technologies are immense.

The Liberal and National Parties always had an open-minded attitude to technology and acknowledged that on a land mass as large as ours a mix of technologies would be required to provide optimal service at the optimal price.

So before finally, blindly committing Australia to spend \$4.7 billion on an uncosted, untargeted policy ... one that could feasibly be delivered through a better mix of technologies, the right regulatory framework and much more targeted expenditure of our very finite taxpayer dollars ... the Rudd Government would be advised to heed the advice of the October 2008 OECD report on Broadband Growth and Policies, which states that:

"even if government policy makers decide that intervention is justified, government policy makers should continuously monitor broadband markets to ensure that government participation is still necessary."

Frankly, this intervention was never properly tested in the first place. We wait to see what, if any, outcomes it will deliver, but the Liberal Party remains firmly of the view that a more targeted use of government funds coupled with a more flexible use of technologies would have better maximised private sector investment, whilst minimising the cost to taxpayers. And we remain very fearful that this NBN project could lead to the duplication of services in many metro areas, whilst those who most need assistance wait in some kind of broadband no mans land.

In this instance, as with so many policies we now see from the Rudd Government, the use of taxpayer funded largesse has become their first resort when it should be their absolute last.

At that same pre-election breakfast the then Shadow Minister also said that:

"Labor will set up an open and transparent public tender process."

You must forgive me for smiling, but Minister Conroy and I have had the pleasure of getting to know each other through many, many hours of Senate Estimates that stretch late into the night. And while Stephen makes for perfectly pleasant company on these occasions – unless of course he's missing a major soccer game at the time – open and transparent are not words that spring to mind at all!

In relation to the NBN he has steadfastly refused to answer any and all reasonable questions for nearly a year now. Hiding behind claims of probity, Minister Conroy has even refused to release the very probity advice on which he claims to rely, let alone answer any of the hundreds of questions the Opposition has posed.

The Opposition has also asked for the ACCC advice provided to the Government earlier this year in response to be made public as soon as a successful bidder is known. For the sake of some transparency in this process we hope the Government will at least lift the gag applied to the regulators views about the ideal forms of regulation.

The final claims I will explore in relation to the NBN, which were stated at this event last year, at your pre-election breakfast and in numerous other fora are the statements that Labor's:

"... broadband plan includes a fibre to the node network that will deliver minimum connection speeds of 12 megabits per second to 98% of Australians ... rolled out progressively over a five year period ... providing a public equity investment of up to \$4.7 billion."

When you hear them like that, as nearly all of you will have heard previously, they sound like a set of clear-cut, not-negotiable, hard and fast commitments. And so you would understand our surprise when the Request for Proposals documentation was released by the Government last year and these rock solid commitments morphed into mere 'objectives'.

That's right; there is no requirement in the RFP for 98% coverage of all premises, let alone the type of definition that would clarify how this target is measured so as to avoid a repeat of the OPEL contract cancellation.

12 megabits is not a requirement, but an objective. The same goes for the five year construction timetable, which we know is already behind schedule. Pity those Australians who may be waiting

until 2014 or beyond to see any improvement to their services. Prime Minister Rudd may even have a long wait to get his all important photo opportunity!

The public equity taxpayers were going to get from their \$4.7 billion investment could now be as little as the giving of government grants instead. So much for the promises that the Government "expects to earn a return from its investment" – let alone the 'equal partnership' the Minister once spoke of.

Even the use of fibre to the node technology is now no longer a requirement for the entire network. While the process is far from the "technology neutral" approach advocated by the OECD, you can bet that, despite all their previous attacks on WiMAX and other wireless technologies, if the Government can find a successful bidder out of its tangled up process, that bid will contain a mix of technologies. Fibre to the node just sounded better in the sound bites of an election campaign.

The cut and paste from the election policy to the RFP documentation involved quite a bit of editing. Only time will tell if a final outcome is achieved and, if so, whether it will reflect Labor's initial election policy at all.

The editing process from policy to bid documents was so great that Minister Conroy has even boasted about the flexibility of his approach – citing it as a virtue for the process. In fact the RFP only had three clear requirements ... bids had to be submitted in English ... they had to use decimal currency ... and they had to submit a plan for small business involvement.

That last one proved a little tricky for one high profile bidder! It seems that despite the Government making all of their policy commitments flexible, Australia's largest telco, the owner of nearly all the existing infrastructure and probably the most cashed up of all the bidders got knocked out of the process for want of a small business plan ... sounds like something out of an episode of The Hollowmen doesn't it?

Don't get me wrong, whether Telstra was in or out, a successful bidder or an unsuccessful bidder, the direction chosen by the Government is incredibly difficult ... the regulatory, legal and logistical challenges to this are enormous, whichever way you turn.

The reality is, despite all the bold promises from Labor, they have all the heavy lifting ahead of them. And there are few signs they are up to the task.

Ladies and Gentlemen, I have dedicated the overwhelming majority of my comments to the NBN today because it is overwhelmingly the largest area of planned government spending and activity in the communications portfolio. If we are to believe the Ministers comments about imminent announcements, then it will also be the largest focus of debate and discussion in the coming months.

And because of my desire to thoroughly analyse the disconnect between the promises and the actions of the Government in this area I have no doubt sounded, necessarily so, a little negative.

In our mind the NBN, should it proceed, must do so with appropriate price constraints. Australians should pay not one cent more for services they already have or be forced to acquire additional services they do not want. We thoroughly welcome ATUG's focus on the NBN and outcomes such as pricing, along with a commitment to an open access regime that delivers true competition, free as much as possible of legal bickering that has previously plagued the industry.

Looking forward, the Liberal and National Parties remain committed to encouraging further competition in the communications sector. We will view all future regulatory and legislative changes through the prism of our longstanding commitment to fostering fair and open competition wherever possible. Because that is how we believe the best technological and pricing outcomes are secured for consumers.

That involves getting the balance right between a commensurate reward for the risk and outlay of investment, against the need for fair and equitable open access to any new infrastructure with a monopoly characteristic.

We want to see the broad spectrum of services enhanced, especially those in rural, regional and remote Australia.

It is in those areas with services below par that Government has a key funding role, under creative programs such as the Australian Broadband Guarantee, which the coalition parties started and remain committed to.

We are also mindful for the need to review precisely what a metro equivalent service amounts to. When necessary we must raise the bar, to ensure subsidy is provided to Australians in rural, remote and black spot areas for broadband services that are truly metro comparable in terms of performance and price.

We will not allow this Government to happily leave the bush with access to services it might say are metro equivalent, but which in fact might be the equivalent of dial-up.

There are many other issues in this sector that I could have touched on today, but regrettably time doesn't permit much more.

There is the proposal for mandatory content filtering by internet service providers, on which we continue to await clear details as to the scope of banned content and real-life effectiveness of the filtering process. I, for one, won't be supporting any legislation or proposal that slows down Australia's download speeds or imposes a tougher censorship regime online than applies in other media.

There is the response to the Glasson Review and, while aspects of initiatives announced are welcome, there are real risks for rural and regional Australia from the abolition of the Communications Fund by Labor. This will be the last investment regional Australia receives to bridge the technological divide until the next change in government.

And of course there are the continued high levels of consumer complaints, especially in relation to so-called mobile 'premium services' and questions as to the adequacy of the proposed industry response to these concerns. We welcome ATUG's interest in this issue, as we do your efforts on bringing down global roaming costs where possible.

This is truly a dynamic policy area, in which the Liberal and National Parties look forward to continuing to play a very active role ... all the while remaining very clearly focussed on the end game ... the most effective provision of the best quality services to all Australians in an appropriately regulated marketplace.

I wish you a very successful conference and, along with Malcolm, Nick and our entire team across the Liberal and National Parties, I look forward to continuing to work closely with ATUG well into the future.