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Department of Communications

Via email: [greenfields@communications.gov.au](mailto:greenfields@communications.gov.au)

ACCAN thanks the Department of Communications for the opportunity to provide comments on its Telecommunications Infrastructure in New Developments policy update.

Communication services are a vital public utility and competition in the communications market is imperative. It is important to ensure that end users are offered competitive services that meet high standards and that the regulatory framework does not have unintended consequences or impose unnecessary costs. New developments should be connected to superfast broadband in the first instance and not waiting for NBN Co to reach them or install a lower quality infrastructure which needs to be retrofitted later. This is inefficient, detrimental to end users and likely to cost more in the long run. ACCAN would like to provide a number of comments in relation to the policy update.

### **Charges**

The policy update proposes a \$300 connection charge that is the responsibility of the RSP and passed onto the owner. This appears to imply that the landlord would be responsible in an owner/tenant situation. Currently, as we understand it, the connection charge for Telstra is passed onto tenants but this is not the case for other utilities which are the responsibility of the owner/landlord<sup>1</sup>. ACCAN would support the connection charge being levied on owners/landlords and would welcome further clarity that this is the case proposed here. We are concerned that if this were not the case, low income tenants could be disadvantaged by the cost barrier of the connection fee. Tenants often rely on mobile broadband due to a number of barriers faced; having the connection fee imposed on them would further compound this. After all, the connection charge is a building fixture to supply an essential service.

We are unsure why the infrastructure co-contribution charges for wireless/satellite are the responsibility of the developer and owner and not only the developer, as with the other charges. The contribution that the owner is liable for appears to be at the discretion of the developer. There does not appear to be a cap or guidelines on how much the developer can pass onto the owner and at what stage the owner is notified. This goes against the desire for developers to consider the additional infrastructure cost of the location if it is not in the fixed line footprint. Under the current arrangements it appears that developers can pass the entire cost to the owner, which could have the inadvertent effect of promoting development outside the fixed line footprint. This lack of clarity means that owners may be unaware of these charges when purchasing the property and this could cause disputes between owners and developers - some owners in the development may choose not to have an infrastructure service and object to paying or object to the chosen infrastructure provider. It would be equitable to have all the infrastructure charges imposed on developers, which

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<sup>1</sup> <http://www.tenants.org.au/factsheet-23-utilities>,  
[http://www.tuv.org.au/articles/files/resources/utility\\_charges\\_RT\\_FS\\_052010.pdf](http://www.tuv.org.au/articles/files/resources/utility_charges_RT_FS_052010.pdf).

would then be factored into the value of the property, with the owners facing only the additional connection charge if they chose to activate the service.

In relation to the transitional arrangements, in Section 7, it should be ensured that the charge is implemented equitably and applied to all owners, across all RSPs, at the same time. Like for developers, it should also be only applied for new connections and not retrospectively for applications already accepted.

## **Minimum Service Standards and Access Technology**

The previous policy document which this document replaces - Fibre in new developments - ensured that new developments were fibre-ready. While ACCAN is technology agnostic, we support the rationale behind this policy and related legislation<sup>2</sup> - that installing fibre in new developments is less costly than retrofitting at a later stage. We are concerned that this policy update is taking a short sighted view by giving developers the choice to choose a cheaper infrastructure provider where it is the most cost-effective option in the short term and where next generation broadband will be rolled out in the future. While installing FTTP is a selling point for home buyers, there may be developments and developers who choose the least cost option. This may result in lower quality services for end users and ultimately a higher cost when the service has to be retrofitted. The policy puts the developers' right to choose an infrastructure provider first, ahead of and in some situations may be in conflict with, end users' rights to have superfast broadband. Returns to developers and infrastructure providers may be put ahead of connecting end users to high quality services. If NBN Co has to retrofit new developments as part of its future roll out it will add additional cost for NBN, the tax payers and ultimately end users.

The Department should also be cognizant of the fact that owners may not be aware of the consequences associated with chosen infrastructure services. End users often do not understand what options, limitations and costs are placed on them by the chosen infrastructure technologies and providers until they are using them. Therefore while communication services are a selling point for developers it is possible that sub-optimal situations may arise where the installed infrastructure does not live up to owners' expectations. It should be ensured that the most appropriate technologies are installed in developments and standards are met in each development.

ACCAN agrees that infrastructure should provide services that are capable of meeting a minimum level of services comparable to NBN Co and that this should be upgradeable and competitive.

## **Overbuilding**

ACCAN believes that NBN Co should prioritise areas that are not adequately serviced. Further clarity would be welcomed on the procedures for when NBN Co can overbuild. The policy update states that NBN Co will be *directed* to advise Shareholder Ministers where there is a commercial case. What criteria will the Department use in deciding if NBN Co can then overbuild in a commercially served development? Conversely, the document states that where NBN-consistent outcomes are not being provided NBN Co *may* choose to overbuild. In these situations end users' needs are not being served to the required NBN equivalent standard and action should be taken to correct this. Procedures should be developed for these situations so end users are not left with poor or no service for lengthy periods. ACCAN would advocate that NBN Co should be directed to advise

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<sup>2</sup> Telecommunications Legislation Amendment (Fibre Deployment) Bill 2011

Shareholder Ministers of developments that it is aware of that are not meeting equivalent standards, that it considered to overbuild and the reasons why it choose to overbuild or not.

## Standards and Interfaces

Multiple interfaces are likely to result in reduced RSP competition and increased costs which would negatively impact on consumers. In fact there are instances in current developments where monopoly RSPs exist due, in part, to differing infrastructure interfaces and RSPs choosing not to service developments because of this. ACCAN supports a standard interface for networks and RSPs to ensure open competition among RSPs and choice for consumers but we have no preference on how this model should be delivered. We would advocate that the business-to-business interface integration standards would apply to all developments currently offering services which would help address competition issues faced in current developments.

## Section 4 – Infrastructure Provider of Last Resort (IPOLR)

While ACCAN accepts and appreciates that there are circumstances where interim services over wireless technologies are the most viable option pending the roll out of the NBN, end users are faced with limited options in these circumstances. Even though the policy expects that this would be limited to 12 months, this is a significant period of time for end users to be on costly services that do not compare with fixed line services in terms of speeds or data allowances. While an incentive is there for developers to pay an alternative provider, ultimately the higher costs of the interim service (financial and quality of service) are borne by the end user and not the developer and may not be fully understood by the owners when purchasing the property. ACCAN wishes to see developments in these circumstances prioritised and consideration given by Government as to whether an alternative carrier acting as an IPOLR could serve them better under carrier licence conditions.

ACCAN believes that there should be a clear resolution mechanism for industry disputes, in cases where IPOLR disputes arise. We think this should be a transparent mechanism but suggest the Government should consider if an owner / end user perspective should be involved also to ensure that their needs are considered and met in the process.

There is a risk that section 4.9, which gives Telstra the option to not provide voice services under its USO obligation in areas that have an alternative network and voice service, would result in a first entrant monopoly provider being the only option for end users. ACCAN suggests that this should be qualified to say “alternative network and voice services are already available **and comparable to Telstra services**”. Otherwise Telstra may opt not to service an area that has services that are not competitive.

Yours sincerely



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