

From Universal Service to Communication Rights: Connecting Everyone in the Internet & Mobile Age

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Presentation to ACCAN USO Forum – *Rethinking
the USO*

mind the universal service gap

- In this talk I argue that there is a major policy gap that an updated concept of universal service could address
- contradiction between reality of communications in social life & what the market (fails to) delivers
- our current policy frameworks don't address this – in particular, we have a gap between the 'low bar' of the present USO & various other policies that do offer aspects of universal service (e.g. NBN, mobile hotspots)

from universal service to communication rights

- Thus we do need to reform universal service (& USO, in particular, but if we really want to think afresh about the future, we need to reconceptualize equitable access to communications
- Australian adopted and indigenized universal service (from 1975); it's important still because of the 'universal' concept – i.e. everyone should have access, what we'd call a 'fair go'
- but there's another, potentially fundamental perspective: communication rights (first called 'right to communicate')
- 'rights' are often critiqued, from different perspectives & are in tension with universal service & social justice & equity – but the notion of communication rights is very forward-looking & useful (Goggin 2014, 'Communication Rights and Disability Online')

The time will come when the Universal Declaration of Human Rights will have to encompass a more extensive right than the right to information . . . This is the right of men to communicate. (Jean D'Arcy, 1969)

In developing what might be called a new era of social rights, we suggest all the implications of the right to communicate be further explored (*MacBride Report*, 1980, p. 265)

Our Common Vision of the Information Society

13. In building the Information Society, **we shall pay particular attention** to the special needs of marginalized and vulnerable groups of society, including migrants, internally displaced persons and refugees, unemployed and underprivileged people, minorities and nomadic people. We shall also recognize the special needs of older persons and persons with disabilities. (World Summit of Information Society, WSIS, 2003a; WSIS emphasis)

‘States Parties shall take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice... (UN Convention on Rights of Persons with Disabilities, 2006, Article 2)

- a. Providing information intended for the general public to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner and without additional cost;
- b. Accepting and facilitating the use of sign languages, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication of their choice by persons with disabilities in official interactions ...
- d. Encouraging the mass media, including providers of information through the Internet, to make their services accessible to persons with disabilities; (CRPD, UN, 2006, Article 2)

new universal service framework (inspired by disability)

- overarching framework is communication rights + universal service
- start with UN Convention on Rights of Persons with Disabilities – international frame of reference – sets out new dimensions of communications rights (for everyone)
- formulate overarching, coordinated universal service policy – across various technologies
- building blocks are telecoms, broadband, mobile – how to ensure Australian consumers gain universal, affordable, accessible services

the communications policy gap

- for most Australians, everyday life, business, education, family & friends & relationships & social & political participation means **having, or expecting, access to & use of modern forms of communication (& media)**
- today this means:
 - traditional voice telecommunications (and equivalents)
 - Internet & mobile communications
 - a diverse & free media: television; radio; press; books & magazines (all of which are in transformation involving digital formats, devices, cultures & platforms)

the communications policy gap

- all in society require & expect a 'tool kit' of modern communications;

cf. Communications Minister Malcolm Turnbull: *'nobody is suggesting there should not be universal access to affordable broadband as well as voice, so the question then is: how do you define broadband and what is affordable?'* (Liz Fell, 2011. 'Malcolm Turnbull: A feisty interview with the Shadow Minister.' *Telecommunications Journal of Australia* 61 (1): 2.7)

cf. 'As mobile telephony becomes ubiquitous, OECD countries may consider the role of wireless technologies in universal service policies' (Calvo/OECD, 2012)

& this technology & the literacy & capability to use it is assumed in modern government (e.g. Fed gov *Digital Transformations Agenda*), modern economy (e.g. international competitiveness; online business; 'sharing economy'), modern work & education, where people live (smart cities, rejuvenating regions, reconnecting rural & remote Australia, platforms for remote indigenous communities)

'mind the gap'

- the kind of communication entitlement that people need in contemporary Australia (and many countries elsewhere) is clear
- it's recognised in two major initiatives: National Broadband Network (NBN); and mobile blackspot program
- both of these programs build on publicly very well supported ideas that Australians should have affordable access to high capacity, quality Internet, & mobile & traditional telecommunications services

'mind the gap'

- there is a yawning gulf between the widely accepted 'basket' of communication services -- which few would contest -- & the outdated 'safety net' of the current USO
- the current USO - and its centrepiece definition of standard telephone service – remains important but is severely limited (due to dominance of supply-side thinking, as well as path dependency)
- a challenge & opportunity is the multi-technology environment; the USO is a telecommunications legal & policy construct, but contemporary communications crossed many industries, not least computing, Internet & IT

elements of new universal service framework

Unifying universal service concept - & coordinated plan includes:

- current standard telephone service, expanded into a 'more ambitious IP-based service' (Darling, 2012, 23.8)
- Broadband Internet
- mobile
- web accessibility (including mobile Internet)
- mobile app accessibility
- mobile service & device accessibility
- television accessibility – captioning; audio description
- affordability dimensions of new universal service concept
- early accessibility/disability issue identification & assessment for emerging services

mechanisms

- upgraded standard telecommunications service (USO – Dept of Communication)
- Integration with broadband – explicit accessibility guarantees on NBN retail services (part of Fed govt policy)
- web accessibility (govt websites, National Transitional Strategy – Finance; how to drive accessibility with non-govt website)
- mobile Internet/app accessibility (covered by National Transitional Strategy & *Disability Discrimination Act*)

new tools & framework

- key issue is that the USO, and STS mechanism, can potentially be upgraded; but given the issues, it probably won't bear the weight of a unified universal service concept, let alone the communication rights perspective

Suggestion 1.

- creative, flexible use of universal service fund to address new areas of needs (e.g. affordability; mobiles accessibility; broadband gaps; emerging technologies) – this has been done (in some way) in the US (& is recommended by UN/UNESCO cf. Broadband Commission 2013)
- universal service fund could be used to underpin/resource social innovation in areas of delivering modern areas

new mechanisms/legislation

Suggestion 2:

expanded, coordinated definition & plan for universal service in any consolidated *Communications Act*

Suggestion 3:

new Act that broadly addresses disability & accessibility issues across communication – ACCAN's call for an Australian 21C *Communications and Video Accessibility Act*

Suggestion 4:

Explicit framework for equitable, affordable access to communications – communication rights - across major govt policy areas (telecommunications, broadcasting, ICT + Australian consumer law + Australian disability policy framework + affordability, social inclusion); USO/NDIS/NBN)

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Additional slides

mind the gap: disability

- from a disability perspective, the current USO is highly significant, because it acknowledges & codifies the accessibility dimension of universal service
- however, it is quarantined in the telephone world – revolving around voice telephony & its equivalence
- the standard telephone service (STS) definition – in light of *Scott v Telstra* – has been a breakthrough; resulting in current arrangements whereby Telstra provides disability equipment
- problems are well acknowledged: burden falls on one carrier (albeit USO-nominated) rather than others; rather than independent Disability Equipment Fund (long advocated), customers are tied to one carrier (though Optus also provides some dedicated equipment)
- Opportunity was missed in March 2012 legislation to update USO (Corner, 2012)
- Lack of public scrutiny of key aspects of NBN that bear on USO (e.g. in agreements signed with carriers in 2011 & 2014) (Corner, 2012)
- review and reporting on accessibility dimension of USO is now of concern, given that Telecommunications Universal Service Management Agency (TUSMA) has been folded into the Department of Communications (e.g. its independent board has been replaced by government officials)
- research on consumers with disabilities remains scant; not sufficiently framed, conceptualized, participatory, rigorous or comprehensive