Regional Telecommunications Review 2015

Submission by the Australian Communications Consumer Action Network

15 July 2015

About ACCAN

The Australian Communications Consumer Action Network (ACCAN) is the peak body that represents all consumers on communications issues including telecommunications, broadband and emerging new services. ACCAN provides a strong unified voice to industry and government as consumers work towards availability, accessibility and affordability of communications services for all Australians.

Consumers need ACCAN to promote better consumer protection outcomes ensuring speedy responses to complaints and issues. ACCAN aims to empower consumers so that they are well informed and can make good choices about products and services. As a peak body, ACCAN will represent the views of its broad and diverse membership base to policy makers, government and industry to get better outcomes for all communications consumers.

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Executive Summary and Recommendations

Australian Communications Consumer Action Network (ACCAN) would like to thank the Regional Telecommunications Independent Review Committee (RTIRC) for the opportunity to submit to its review. The Regional Telecommunications Review is the only review that examines horizontal, or geographic, equity in telecommunications services and so is of value to consumers.

The timing of the review creates its own challenges, as two large infrastructure projects, namely the mobile black spots programme and the rollout of the National Broadband Network (NBN), are still in motion. It is difficult to predict what gaps will still exist going forward. In our submission ACCAN has tried to outline issues that it sees are persistent. Furthermore we have made suggestions on how these might be addressed.

ACCAN's submission sets out our opinion on the issues surrounding affordability of services, demand for services, NBN, backhaul, mobile, funding, services required and consumer safeguards. Throughout the submission we will draw on our members feedback and consumer contacts, (in the form of case studies) of issues that consumers face in regional areas.

ACCAN has nine key recommendations for the Committee. Namely;

1. Entry level pricing should apply over nbn™ to provide affordable voice and broadband plans.
2. Pricing of products in the fixed wireless and satellite areas need to be examined to ensure that consumers in these areas do not pay more for equivalent services.
3. Information campaign and greater community engagement is required to inform consumers about available (or due to be available) services in their area.
4. Address inflexibility in the NBN product model. There are persistent barriers, such as the lack of flexible plans for consumers and community products. Options such as pre-paid plans and 'community internet' need to be developed.
5. Further investment in backhaul is required. The use of high-speed microwave terrestrial backhaul and existing fibre could be used to extend NBN and mobile services into remote areas from existing nodes.
6. Ongoing funding is required to ensure that mobile coverage is available to all consumers.
7. Funding guidelines and community programs designed to inform and encourage ongoing community participation in identifying regional communications needs.
8. Establish a consumer safeguard which guarantees a broader set of services (voice, data and mobile).
9. A new standard should be developed that applies to the different levels (retail and wholesale) of service provision.

Affordability of Services

The consultation document does not discuss communications affordability. However, there are significant cost barriers that affect consumers in regional areas. The NBN will present new affordability barriers for consumers, with unique problems for consumers in regional areas. These should be considered and addressed before the NBN reaches scale and affordability problems become entrenched in the model.

Telecommunications Affordability

Affordability has a direct relationship with take up of services. The chart below demonstrates the relationship between broadband penetration and affordability in Europe.[1]

**Figure 1: Relationship between broadband penetration and affordability**
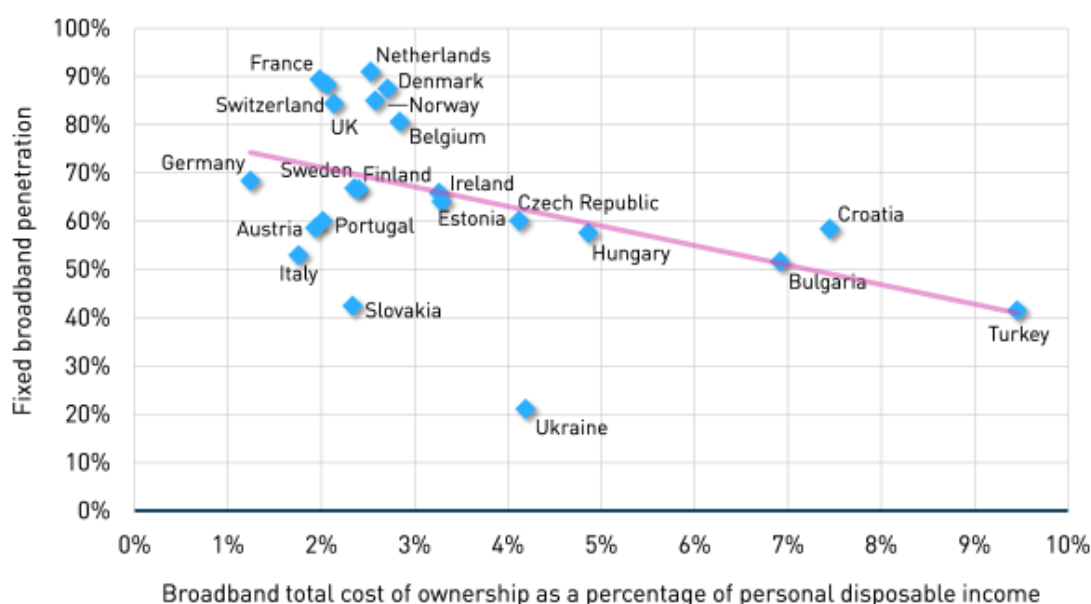
In Australia, take up of services is especially low among lower income households. Nationally the rate of households without internet is currently 17%, with access falling to just 57% for households with income less than $40,000.[2] Rises in internet cost, even slight, are likely to further exacerbate this digital divide.

Increasingly mobile services are seen as more affordable. The graph below, charts the percentage of income that different income level households spend on fixed line services

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[1]Analysys Mason, 2013, Bridging the Digital Divide: Connecting the Unconnected.
http://www.analysysmason.com/Templates/Pages/KnowledgeCentreArticle1.aspx?id=13414#.Uexx1G1adT0
[2] ABS, 2014, 'Household Use of Information Technology, Australia, 2012-13', available at:
http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/8146.0Chapter12012-13

versus mobile services.[3] It is clear that mobile solutions are more affordable, in particular for lower income households.

Figure 2 Telecommunication prices as percentage of household income

Prices as a percentage of household income
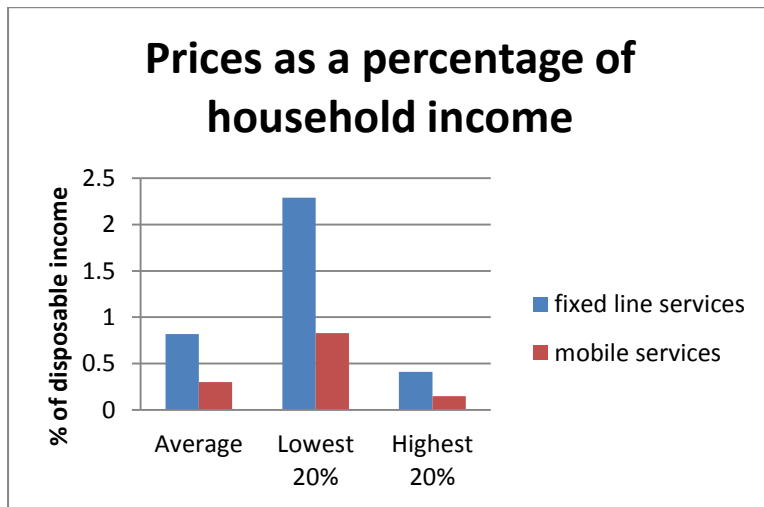
This is supported by ACCAN and Anglicare Victoria research on telecommunication affordability, which showed mobile phones are preferred by low income consumers. The research found that monthly expenditure on mobile services was low relative to other telecommunications services and the majority of users considered mobile somewhat or very affordable.[4]

NBN affordability barriers

There is evidence to suggest that affordability will become a greater issue for consumers on the NBN. A recent ACCC report showed a real price increase of 4.6% for NBN products, while the cost of other telecommunication services decreased.[5]

A number of industry commentators have argued that the pricing construct of NBN is not designed to provide affordable entry level broadband or affordable capacity

Lord Howe Island

Consumers in Lord Howe Island (LHI), like many in isolated areas, receive broadband via satellite. Locals have informed ACCAN that Telstra is the only provider with availability in the area.

For 20GB a month on a two year contract, the installation cost is $3,600, and per month charge is $600 ($18,000 in total for 24 months).

This is significantly higher than services provided elsewhere. A similar plan over ADSL would cost 85-90% less.

Like other islands, LHI residents are unable to get Interim Satellite Service. They also have no mobile coverage. If they want connection then these high charges are their only option.

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[3] ITU, 2013, Measuring the Information Society https://www.itu.int/en/ITU-D/Statistics/Documents/publications/mis2013/MIS2013_without_Annex_4.pdf
[4] Anglicare, 2013, Trying to connect. Telecommunications access and affordability among people experiencing financial hardship. https://accan.org.au/our-work/research/711-affordability-for-low-income-consumers
[5] ACCC, 2013-2014 Changes in the Prices Paid for Telecommunications Services https://www.accc.gov.au/system/files/906_ACCC%20Telecommunications%20reports%202013%E2%80%9314_web_2-June-2015.pdf

(data) for consumers.[6] Telecommunications economist John de Ridder has argued that without entry level retail pricing "there will be 250,000 fewer broadband customers."[7] De Ridder argues that "It is desirable to have a plan that does not rely on pre-qualification (e.g. the customer has to be a social housing tenant) but administers itself." Affordability is an issue across Australia and is not limited to consumers in receipt of Government interventions. The option for retailers to provide low cost plans to all consumers and for consumers to self-select these plans, will suit a wider array of consumers. Consumers can then choose the products that suit their needs.

An alternative to an entry level product is social tariff pricing. This was previously suggested in the energy market.[8] Under this pricing model, cheaper rates could apply for vulnerable consumers, such as those in public housing or in receipt of benefits. Retailers could then pass these lower rates through to these consumers. However, this would require qualification or means testing. As there is a greater level of administration, a social tariff, would be more costly and would benefit only those who qualify.

This suggests that further measures need to be taken to address affordability over the NBN. Increasing prices and a lack of entry level broadband will limit consumers' ability to take up services. Individual consumers, society and the economy will not reap the benefits from the NBN if these predictions prove true. Where coverage allows, consumers may switch to lower priced non-NBN alternative products, such as mobile services. In more regional areas, the option to do this may not be possible.

> Recommendation 1: Entry level pricing should apply over nbn™ to provide affordable voice and broadband plans.

Fixed Wireless and Satellite Affordability

Affordability is a current concern for regional consumers. For example, our case study from Lord Howe Island (LHI) shows how consumers are currently paying 85-90% more for services than those in the fixed line footprint.

Consumers in fixed wireless and satellite areas are likely to face additional costs because they may require more than one network connection in order to receive both broadband and voice telephony. Consumers who are content with VoIP in the wireless footprint will not be worse off. However, those who retain a legacy network voice service could pay more for

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[6] See Bevan Slattery and iiNet comments
http://www.afr.com/business/telecommunications/nbn-internet-prices-may-be-worlds-most-expensive-20150421-1mpxu9
http://www.smh.com.au/business/media-and-marketing/netflix-popularity-requires-nbn-price-rethink-says-iinet-boss-david-buckingham-20150705-gi4ve6.html
[7] John de Ridder, 2013, Entry Level Pricing for Fixed Broadband
http://www.deridder.com.au/files/Entry%20Level%20Pricing%20for%20Fixed%20Broadband-FINAL.pdf
[8] See AER tariff proposal 2015-2016

two services. Anecdotally, perceptions about improved network reliability are influential in consumers maintaining a legacy connection for telephony.

In contrast consumers in the fixed footprint can receive all communication services over the one network, often saving money through bundled product offers. The table below shows how fixed wireless consumers will pay an extra $20 a month compared to fixed line consumers for an equivalent service.[9]

Figure 3: Example Fixed Wireless versus Fixed Line with iiNet

Fixed wireless	Fixed line
25/5 Mbps plan with 250GB of data for $74.90 Includes a 'Netphone' (VoIP) with free local and national calls.	
Legacy fixed line phone[10] $29.95. Plus $20 for local, national and mobile call pack.	'Fibre phone' through the UNI-V port $19.95 includes local and national calls. Plus $10 for a mobile call pack.
Total monthly cost: $124.85	**Total monthly cost: $104.85**

Consumers in satellite areas will face a similar issue; however, due to latency VoIP may be insufficient for a greater number of users. It remains to be seen what the quality of service for voice telephony will be like over the NBN Long Term Satellite Service (LTSS).

> Recommendation 2: Pricing of products in the fixed wireless and satellite areas need to be examined to ensure that consumers in these areas do not pay more for equivalent services.

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[9] http://www.iinet.net.au/internet/broadband/nbn/fibre-phone/#feature-tabs
[10] http://www.iinet.net.au/phone/home/

Demand for services

Question 1
Do people in regional Australia believe their reliance on telecommunications differs from those in urban areas? How does it differ and can you provide examples?

Communications are vital for all consumers. As discussed in the South Australian Council of Social Service (SACOSS) Cost of Living Update, telecommunication services are essential, significant and regressive.[11] [12] They are used to perform everyday tasks, such as shopping, banking, filing tax returns and communicating. The difference between urban and regional consumers is twofold; regional consumers are more reliant and they have more to gain from having access to these services.

Reliance

Consumers in more remote areas may only have one communication service; if this fails there may be no reliable back up. In urban areas there are often multiple fall back options. Due to the remoteness and small populations consumers are often more reliant on having a working telecommunication services in case of emergencies. Also, in many communities small business support services are closing physical storefronts. Where internet/phone services are unavailable or unreliable, this can lead to massive disruption to business. Driving or using postal services for banking and administrative tasks may cause significant delays in activities like paying employees, or lodging Business Activity Statements (BAS).

ACCAN have been contacted by a number of consumers with stories of being cut off from all services to their premises, lasting days, weeks or months. The Warrnambool exchange fire demonstrates the impact a loss of communications can have on a community. An ACCAN study showed that this caused a severe impact, with 95% of respondents suffering some inconvenience related to a business transaction. Businesses were particularly hard hit with 24% unable to function and were forced to shut down (for some period of time) and 70% of consumers were unable, or found it difficult, to make important purchases, such as food or fuel. The disconnection also impacted social interaction as 87% of people were unable to communicate with friends or family.[13] In total the fire affected 85 schools, 20 hospitals, 27 police stations, 92 fire stations and 14 SES services.

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[11] Telecommunication products are regressive as the cost to consumers decreases as the amount paid increases. i.e. consumers on entry level plans pay more for services than those on the higher end products.

[12] SACOSS Cost of Living Update 2015
https://www.sacoss.org.au/sites/default/files/public/documents/Reports/Cost%20of%20Living%20Reports/150520_CoL%20Update%20No22_Telecommunications_final.pdf

[13] ACCAN, 2013, Warrnabool Exchange Fire, Consumer Impact Analysis https://accan.org.au/grants/completed-grants/623-warrnambool-exchange-fire-consumer-impact-analysis

Gains

There are a number of gains to be achieved from using telecommunication services. For regional consumers, where distance is a barrier, these benefits are especially significant. Instead of travelling for possibly hundreds of kilometres, completing tasks online can save time and money. For example, a study by the Monash University found that patients in regional and remote areas had lower access to mental health specialists.[14] Telehealth is providing a cost effective solution to this problem of isolation.[15] Furthermore access to reliable telecommunications allows for working from home, providing jobs in areas that may otherwise have little access to employment. Telecommunications is also a key facilitator for education services.

> ## Question 1 summary
>
> *Do people in regional Australia believe their reliance on telecommunications differs from those in urban areas? How does it differ and can you provide examples?*
>
> Regional consumers are more reliant and have more to gain from telecommunication services. Where telecommunications services are not available regional consumers need to travel greater distances for work, to purchase goods, education, social interaction and essential services.

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[14] Article on Monash University Mental Health Study 2015. http://www.abc.net.au/news/2015-03-02/study-highlights-divide-in-access-to-mental-health-services/6269920

[15] Nbn, 2015, telehealth blog. http://www.nbnco.com.au/blog/theres-more-than-meets-the-eye-with-telehealth.html?cid=socmed%3Atwitter%3Aoutbound%3Ahealth%3A07%2F01%2F15

National Broadband Network

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Question 2

For the users already connected to an NBN network service, has the service met your expectations?

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The number of regional consumers receiving services on the NBN is still very low.[16] This limits what we can conclude about consumer experience and satisfaction with the services and the mix of technologies employed. In order to evaluate the experience of the NBN we will draw on the limited data which is currently available.

Experience to date

nbn™ monitors end user satisfaction through a scorecard (see figure below for the April 2014 results). Fixed wireless scored the highest satisfaction, both overall and for individual performance areas. In fact, the highest score achieved by nbn™ was for product experience over fixed wireless. However, given the limited take up rate of fixed wireless (18% take up rate as at June 2015); this may not be truly reflective of all consumers' confidence and satisfaction with this technology. Consumers with more complicated arrangements, such as medical alarms, Priority Assistance customers, EFTPOS terminals, or with more limited knowledge and skills may be self-selecting not to connect. This is more likely in the wireless footprint given that consumers in these areas do not have a switch off date for the copper network. Further research and consumer education may be required to fully understand satisfaction with wireless services. It is not clear if the fixed wireless product will suffer from contention if the take up increases. This would reduce consumer satisfaction.

The lowest scores received by consumers were on the Interim Satellite Service (ISS), particularly for product experience. There have been a number of issues with the ISS, stemming from an underestimation of demand. nbn™ has tried to address capacity issues by limiting consumers on the services and by implementing 'fair usage' policies. While the experience of the ISS has been poor, it is difficult to judge the NBN or the satellite services from this interim service (see further information below on our thoughts of how the service will perform).

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[16] See nbn™ weekly progress report http://www.nbnco.com.au/corporate-information/about-nbn-co/corporate-plan/weekly-progress-report.html#.VH0BKtKUeSo

Figure 4 nbn™ scorecard[17]

End-User Product Scorecard (April 2014)[3b]	Fibre	Fixed Wireless	Interim Satellite	Total NBN
(scores are out of 10 – average across all respondents)				
Overall Satisfaction with NBN Co Products End-User evaluation of all experiences relating to NBN Co.	7.5	7.9	6.2	7.3
Value for Money End-User evaluation of what they receive from the NBN relative to price paid.	7.2	7.7	6.3	7.1
Installation & Activation End-User evaluation of overall NBN ordering and Activating experience.	6.4	7.4	7.2	6.5
Product Experience End-User evaluation overall performance of their NBN service.	7.8	8.1	5.8	7.5
Support & Resolution End-User evaluation of the overall handling of their support requests.	6.7	7.0	5.9	6.6

Source: NBN Co.

NBN related complaints to the Telecommunications Industry Ombudsman (TIO) have primarily focused on connection delays and missed appointments.[18] The number of complaints to the TIO has increased every quarter, but not relative to the number of active subscriptions on the NBN. This indicates that nbn™ and providers are putting in procedures to deal more efficiently with the migration. However, given the relatively limited sample size, TIO data may not yet be indicative of satisfaction levels.

ACCAN's research, Broadbanding Brunswick, examined the adoption and use of the NBN in one of the first release sites.[19] The research revealed that those who adopted early were primarily guided by the desire to have faster speeds. Also, it found that NBN connected homes were more likely to make greater use of the internet and more likely to engage in more sophisticated online activities. Furthermore, it was found that consumers were more satisfied with reliability and speed over the NBN compared to other connections.

The move to the Multi-Technology Mix (MTM) makes it more difficult to predict satisfaction levels as many of the technologies that will be used; HFC, FTTN, FTTB, LTSS, are not available or are still in development stages.

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[17] nbn™ Corporate Plan 2014-2017 http://www.nbnco.com.au/content/dam/nbnco2/documents/nbn-co-corporate-plan-2014-17-Nov11.pdf
[18] Telecommunications Industry Ombudsman, 2014, NBN related complaints.
https://www.tio.com.au/publications/news/tio-reports-on-nbn-related-complaints
[19] ACCAN, 2013, Broadbanding Brunswick. https://accan.org.au/files/Broadbanding_Brunswick.pdf

> ## Question 2 summary
>
> *For the users already connected to an NBN network service, has the service met your expectations?*
>
> Experience over the NBN has been very mixed to date. The interim satellite service in particular has had poor experience. There have been a number of issues during the migration, outside of the technology capabilities, which have affected experience and opinion of the NBN. As the Multi-Technology Mix is deployed teething issues are likely to continue.

Will NBN meet expectations?

> ## Question 3
>
> *Having regard to the technical solution likely to be used in your areas, do you have views on the adequacy of that solution in terms of meeting needs now and into the future?*

Consumer sentiment, capability of the underlying technology and affordability are useful aspects to consider when assessing the ability of the NBN to meet consumer expectations.

Consumer sentiment

There is a distinct lack of information provided to consumers from retailers and nbn™ regarding the NBN. There is a particular lack of information and knowledge among consumers in fixed wireless and satellite areas. Many consumers who have contacted us do not realise that they will still have access to voice (and data if provided over the network) services over the legacy networks (copper, HCRC etc.).

Previously, nbn™ provided a map of every house with an indicative date of rollout and technology to be used, it no longer provides this information. Consumers are only contacted when a rollout area is announced. This occurs 18 months prior to cut off date in fixed footprint areas and 3 months prior to service availability in Long Term Satellite areas. In particular future satellite consumers appear to be generally aware that the LTSS will be commercially launched in 2016, but they are not aware that it may take a number of years before all those consumers to be connected. Consumers may face decisions about services prior to NBN availability in their area, only to have NBN imminently in their area. Conversely, they may put off obtaining alternative plans in the anticipation of NBN rollout, which may be further away than expected. Informed consumers are able to plan to a greater degree.

There is confusion over the NBN plan. The official data released varies and it is difficult to pinpoint actual figures. For example there are different figures used for the number of premises that will use satellite services. The satellite services are a limited resource and the number of consumers on the services will make a large difference. It is estimated that 3% of

premises will be serviced by satellites. Depending on the number of premises used (8 million or 12 million), this ranges from 200,000 consumers to 400,000 consumers.[20] [21] These two sources from nbn™, in the same year, provide two different figures for consumers on the satellite services. Given this example of conflicting figures, it is understandable consumers are confused about which technology will serve them.

This has led to frustration and mixed messages. A more proactive messaging campaign, informing consumers of interim solutions and what NBN means for them, would address some concerns and educate many.

> Recommendation 3: Information campaign and greater community engagement is required to inform consumers about available (or due to be available) services in their area.

Some consumers do not have a positive impression of the multi technology mix, particularly the Long Term Satellite Service (LTSS). This stems from a number of factors, including an expectation that the revised NBN will see them receive a 'second choice technology', previous bad experience with similar technologies or a misconception about the capabilities of the technology. There are examples of the politicisation of the NBN reporting which are clearly misleading for consumers.[22]

Capacity to meet expectations

Consumer reports in relation to available technology have generally been positive. However, there are concerns among some consumers that technologies yet to be rolled out will not meet expectations.

Consumers who will receive technologies under the multi technology mix have raised concerns over contention. Fibres to the Premise (FTTP) consumers face significantly less contention than consumers on other technologies. Contention may affect the level and quality of service that consumers receive. There are concerns that consumers on technologies, other than FTTP will not be able to receive the speed and quality of service that is being advertised. Some are also concerned about the upgrade path to fibre; if it is possible and when it will be delivered. The plan for this has not been outlined in detail.

In particular there are concerns that the LTSS will be oversubscribed and not provide an equivalent service to the other technologies. Objectively the LTSS should be a significant improvement over the Interim Satellite Service (ISS), and offer greater service levels than the Australian Broadband Guarantee (ABG) and nbn™ Satellite Support Scheme (NSS). However,

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20 nbn™, 2014, satellite media release. http://www.nbnco.com.au/corporate-information/media-centre/media-releases/nbn-co-selects-optus-to-operate-long-term-satellite.html
21 nbn™, 2014-2017 Corporate Plan. http://www.nbnco.com.au/content/dam/nbnco2/documents/nbn-co-corporate-plan-2014-17-Nov11.pdf
[22] Government pulls plug on NBN in key suburbs article, 2013.
http://www.accessnews.com.au/business/government/item/592-govt-pulls-plug-on-nbn-in-key-suburbs-says-owens

all satellite services have limitations. There are concerns that the satellites will be oversubscribed and will not provide a sufficient level of service to deliver applications such as video streaming and voice telephony. There are concerns over the reliability of satellite services during weather conditions. Data limitations during peak periods, which will cover 18 hours of the day, will be the most limiting aspect of the LTSS. Most end users want to use services during peak hours. This is especially true for premises which have students, particularly school of the air students, or those which run businesses from home.[23]

The National Broadband Network was established to address issues in availability of broadband services. However, it is modelled to provide services to standardised consumers. There are many consumers that will not fit the standard. For example consumers with a preference to access services through a 'community internet' plan. Community internet models are currently used successful in remote Indigenous communities and in public housing.[24][25] These studies showed a preference by consumers to access services through a pay as you go model rather than individual services which they have responsibility for the upkeep of equipment and contract. The current model developed by nbn™ has limited flexibility to apply these and adapt the model to suit consumer needs. One product being developed by nbn™ is a 'Public Interest Premises' which may apply in Indigenous Communities. However, further work needs to be done to ensure that the NBN model does not in itself become a barrier to broadband services. Further programs are required to ensure that all consumers can benefit from services. ACCAN is currently working with Infoxchange to investigate the delivery of broadband services in public housing.[26]

> Recommendation 4: Address inflexibility in the NBN product model. There are persistent barriers, such as the lack of flexible plans for consumers and community plans. Options such as pre-paid plans and 'community internet' need to be developed.

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[23] nbn™ Statement of Expectations, 2014. http://www.nbnco.com.au/content/dam/nbnco2/documents/soe-shareholder-minister-letter.pdf

[24] ACCAN, 2010, Home Internet for Remote Indigenous Communities. www.accan.org.au/grants/completed-grants/194-the-determinants-for-success-for-home-internet-for-indigenous-consumers-in-remote-australia

[25] See for example Infoxchange Wired Community at Wattle Hill project. www.ictservices.infoxchange.net.au/connecting-communities

[26] The results of this research are due later this year.

> ## Question 3 summary
>
> *Having regard to the technical solution likely to be used in your areas, do you have views on the adequacy of that solution in terms of meeting needs now and into the future?*
>
> Some consumers do not feel that the technical solution will be adequate. This largely stems from a lack of information, lack of knowledge of the NBN and the technologies.
>
> There are concerns over contention on the technologies, LTSS being oversubscribed and not providing an equivalent service and the NBN model being too restrictive to meet consumer needs.

Backhaul

> ## Question 4
>
> *Irrespective of the adequacy of your local access are there issues with backhaul or long distance carriage that impacts on your use of telecommunications services?*

Backhaul transmission links are important in the provision of affordable broadband. Wholesale transmission allows access seekers to connect customers in places where the provider does not own its own transmission infrastructure. Regions that do not have access to competitive backhaul are likely to face increased costs for services. This is due to the monopoly prices that transmission owners may charge in these areas and the limited number of retailers who are willing to supply services in those areas. Uncompetitive backhaul is also likely to lower the quality of services, as services may be under provisioned and over utilised. Many consumers will be unaware that the issues that they face may be due to backhaul issues.

Regional areas suffer due to backhaul issues. For example Tasmania is reported to face transmission costs "200 and 300% higher than the cost of transmitting data between Sydney and Melbourne".[27] The Government recognised that there was an issue with backhaul in the establishment of the Regional Backbone Blackspots Program (RBBP). In 2009 the RBBP funded (at a cost of $250million) five fibre-optic transmission routes to service six priority locations (Geraldton, Victor Harbor, South West Gippsland, Broken Hill, Emerald and Longreach and Darwin).[28] The Sinclair Review found a positive impact from this investment in backhaul, with increased number of retail providers offering cheaper plans to consumers in the areas benefiting from the RBBP. The review recommended that "the provision of fibre access points offers future opportunities for communities passed by backhaul infrastructure. NBN Co should include additional fibre access points in any future provision of backhaul."[29]

Backhaul transmission is declared by the ACCC. Submissions from a number of retailers to its inquiries have indicated that transmission pricing, particularly in regional areas, was limiting competition in the provision of broadband and mobile services. The ACCC found in 2014 that it was still in consumer's long term interest to regulate transmission access. It said "Because Telstra remains the dominant supplier of transmission services, particularly in regional areas, making sure that access seekers can achieve any-to-any connectivity is essential if they are to be able to provide downstream services in different locations".[30]

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[27] Bass Strait Feasibility Study, 2014, http://www.tasict.com.au/_blog/News/post/proposed-bass-strait-feasibility-study/
[28] Auditor General Audit Report N0.2 2012-13, Administration of the Regional Backbone Blackspots Program. http://www.anao.gov.au/~/media/Files/Audit%20Reports/2012%202013/Audit%20Report%202/Audit%20Report%20No2.pdf
[29]Regional Telecommunications Review 2011-2012 https://www.communications.gov.au/publications/2011%E2%80%9312-regional-telecommunications-review
[30] ACCC, 2014, Domestic Transmission Capacity Service. https://www.accc.gov.au/system/files/ACCC%20Final%20Report%20on%20the%20review%20of%20the%20declaration%20for%20the%20DTCS.pdf

Moving forward, backhaul transmission will remain an issue over the NBN, where there will be 121 Points of Interconnect (POIs). It is intended that these will each be serviced by at least two transmission providers, however, given the monopolistic nature of transmission networks it is likely that these will need to be regulated. The idea that all consumers can access broadband from wherever they reside at the same price is likely to remain hampered by backhaul transmission limitations.

> Recommendation 5: Further investment in backhaul is required. The use of high-speed microwave terrestrial backhaul and existing fibre could be used to extend NBN and mobile services into remote areas from existing nodes.

Question 4 summary

Irrespective of the adequacy of your local access are there issues with backhaul or long distance carriage that impacts on your use of telecommunications services?

Backhaul or long distance carriage is an issue and impacting on the use of telecommunications services in regional Australia. Further investment is required to ensure services with adequate capacity are in place.

Mobile

Mobile coverage was found to be the primary concern for consumers in both the Glasson Review and the Sinclair Review. Due to reliability issues regional consumers were found to pay more for services, i.e. by having to retrieve messages when out of signal or having to make repeated calls because of drop outs. Mobile coverage continues to be a concern for consumers. The ACMA recently reported that regional consumers were more likely to be mobile only, that 15% of consumers in regional areas are exclusively mobile users. This is greater than the capital city figure of 10% of consumers.[31] This is partly due to the lack of affordable alternative services, as discussed in a previous section. If coverage were available more extensively in regional areas then consumers are likely to benefit.

The first round of funding of Mobile Black Spot Programme (MBSP) was recently announced. ACCAN worked with communities throughout this program. We established a community consultation guide to address mobile coverage and to help consumers attract retailers to invest in their areas.[32] The MBSP identified over 6,000 areas with poor or no mobile coverage.[33] The first successful sites are due to be active by the end of the year. A further round of funding has also been announced for next year. This will improve coverage for many consumers and the program has been very successful in attracting co-investment. However, such a program will not address all consumers' needs. Funding from round one and two will not address all the black spots identified. More remote areas missed out on funding in the first round. These areas will increasingly become less economical to serve, as they have lower numbers of consumers serviced by them. Furthermore it likely that backhaul to the proposed locations will increasingly become an issue. The process for identifying black spots was based on consumer and community self-reporting and was clearly effective. However, some more remote smaller communities may need assistance to engage in future rounds to address the potential that there were a large number of areas that were not identified initially. It is likely that the MBSP will end before all premises have coverage.

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[31] ACMA, 2015, Australians Get Mobile Research Snapshot. http://www.acma.gov.au/theACMA/engage-blogs/engage-blogs/Research-snapshots/Australians-get-mobile

[32] ACCAN, 2014, Community Consultation Guide. https://accan.org.au/consumer-info/community-consultation-guide

[33] As demonstrated on the map, found here: http://nationalmap.gov.au/

> Recommendation 6: Further programs may be required to ensure that mobile coverage is available to all consumers.

In addressing coverage it is important to also address competition. While increasing coverage will benefit consumers, limiting the potential providers available will result in monopoly markets. A number of approaches could be taken to improve coverage such as the use of other networks to reduce cost of improving coverage. This is particularly true for the NBN network and other fibre networks throughout Australia. Co-investment by the telecommunication providers in the most remote areas may produce mobile coverage in more areas that are usable via any network provider. Priority should be considered for coverage to be extended to make 3G/4G available on highways and major arterial roads to provide access routes for emergency services and workers between non-serviced areas.

Question 5 summary

For users living in areas without mobile coverage, what priorities, other than specific locations, do you consider should be recognised in future efforts to improve coverage?

In considering options to improve coverage in future, policy should continue to prioritise competition between providers and providing choice to consumers. The current policy relies heavily on consumer activation. For example, the Mobile Black Spot Programme required areas to be nominated and support from Members of Parliament in order to get funded. There is the potential for smaller regions to be left behind by relying on such consumer self-identification and advocacy.

Priority should also continue to focus on extending coverage on highways and major arterial roads. This is vital in providing access routes for emergency services and workers travelling through regional areas. Natural disaster prone areas in particular require reliable services to aid effective decision making in the event of emergencies, like bushfires and floods.

Question 6 summary

What opportunities do the mobile network industry see for extending coverage in regional Australia and increasing investment in mobile networks?

Round 2 of the Mobile Black Spot Programme and the NBN provide opportunities to the mobile network industry to increase investment and extend coverage. There is a potential to use the NBN or other IP services for extending mobile coverage into unprofitable areas by creating small cells using satellite. This however, should be upgradable and not the long term solution for consumers.

Funding

> ## Question 7
>
> *Do you have any views on co-investment approaches that might help to improve the broadband technology outcome in your area?*

The consultation document makes reference to the Bureau of Communications Research consultation on funding for non-commercial services and the nbn™ Technology Choice consultation. ACCAN has made submission to both of these.[34]

In order for areas to benefit from the Technology Choice product they need to approach nbn™ before services are available and have sufficient funding. There are a number of steps in the application process and non-refundable payments are required at each stage. This presents a number of barriers. For many areas and consumers this upgrade will not be possible. Its success largely comes down to personalities. Informed, motivated and organised consumers will be more successful in driving this. Those that may benefit more from the upgrade may not have the capacity to drive it. Potential options to improve the number of areas that utilise this function is for nbn™ to outline options to each area. This would provide an outline of the total potential cost, the benefits to upgrading and the difference in the timeframe of getting services. Consumers, councils, companies etc. in the area will be more informed and can organise themselves quicker if they agree with the options. Likewise it will save community efforts and funding it they know up front that the technology choice will meet their expectation or will be upgraded within a certain timeframe. Guides should be established, which outline the potential steps and funding bodies to consider in the area.

> Recommendation 7: Funding guidelines and community programs designed to inform and encourage ongoing community participation in identifying regional communications needs.

Open access networks and smaller targeted technologies may prove to be useful in the most remote of communities. nbn™ may have access to other fibre networks that could be utilised into the NBN. ACCAN is aware of projects, such as the Great Northern Network, which may provide opportunities for co-investment approaches.[35]

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[34] ACCAN, 2015, submission to the BCR. http://accan.org.au/our-work/submissions/1061-funding-for-fixed-wireless-and-satellite-services
Technology choice submission to nbn™ was made in confidence via the Product Development Forum.
[35] Great Northern Telecommunications. http://greatnorthern.net.au/Webpage%20information%202.htm

Question 7 summary

Do you have any views on co-investment approaches that might help to improve the broadband technology outcome in your area?

Further investigation by nbn™ into utilising all available fibre technology is required. This may reduce the number of consumers that are put onto the satellite and fixed wireless solutions. Co-investment guidelines should be produced for communities to actively pursue these options.
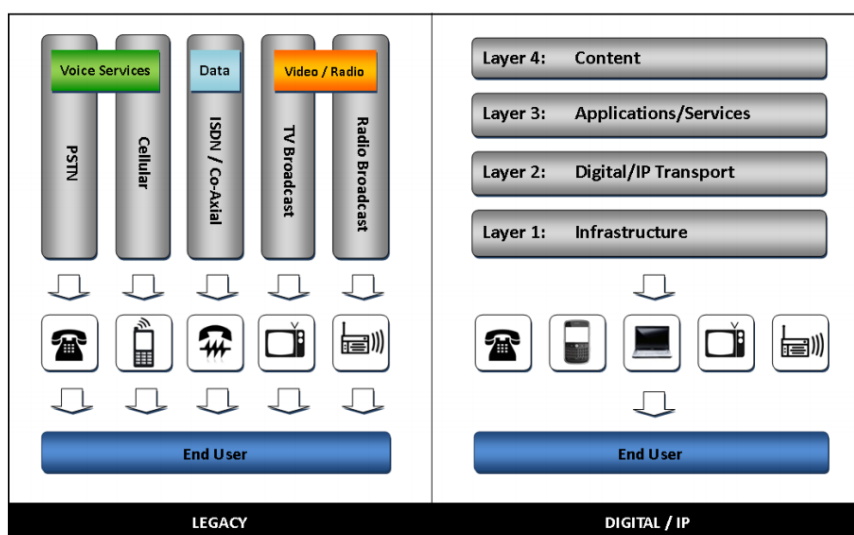
Services

Question 8

How might new applications and services that utilise mobile networks for voice and data transform the way you live and work?

The telecommunications sector has changed; the services and devices that consumers' use and the networks that provide these have developed and evolved. This is demonstrated in the graph below taken from the ACMA Broken Concepts Report 2013.[36]

Figure 5 ACMA Broken Connections 2013

The NBN and Mobile Black Spot Programme support the development and movement of services for consumers to a digital / IP world. However, consumers' services in regional areas are often based around the legacy networks. As a result regional consumers, particularly fixed wireless and satellite consumers, are likely to experience limitations if they remain on the legacy services.

There are many applications and services currently available that would improve the way rural and remote consumers live and work. However, the lack of reliable connection, data limits and the lack of affordability is prohibitive to take-up. Small businesses are not

Jane is a farmer from Delamere in South Australia near the Deep Creek Conservation Park. Jane uses Telstra for wireless internet and a landline.

Despite having fixed aerial to improve mobile broadband signals the farmhouse still suffers from intermittent services. This has caused difficulty in attracting workers to the farm. Although Jane can find workers, many of these cannot stay because they have partners who are unable to pursue work or education opportunities online.

The internet service is also not reliable enough to conduct internet banking and conduct payroll for her employees. This means Jane has to travel to the nearest bank to conduct payroll.

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[36] ACMA Broken Concepts, 2011 (updated 2013).
http://www.acma.gov.au/theACMA/About/The-ACMA-story/Connected-regulation/broken-concepts

offered the same opportunities to innovate, or in fact continue, as those in urban areas.

The view of communications as essential has become stronger with time. Most recently the South Australian Council of Social Service (SACOSS) Cost of Living Report noted the essentiality of internet use for a range of activities from access to government services, paying bills, banking, employment and education.[37] Communications is also essential beyond these transactional relationships; it is a platform for a variety of social connections and participation, from keeping in touch with friends and family, to finding information on current affairs, cultural and community events.[38] Communications have become so entwined in consumers' lives that losing access can have a serious impact on their ability to participate in the economy and society generally.

Government engagement

The essentiality of communications is most evident in how citizens engage with government. The launch of the Australian Government's Digital Transformation Office with the stated policy of "all new and redesigned services will be digital by default" demonstrates the importance of digital communications.[39] There are significant benefits for both citizens and government in moving to a digital platform. As a general rule it is more efficient for citizens to access government services online. This is particularly so for people in regional areas who may otherwise need to travel long distances to access these same services. Digital transformation also extends to the ease with which citizens can engage with government policy and inform better implementation of services. However, underlying an effective digital first agenda is the need for a reliable network. Without reliable networks, citizens, particularly those in regional areas, will be disconnected from the benefit of digital transformation.

Question 8

How might new applications and services that utilise mobile networks for voice and data transform the way you live and work?

Consumers and small businesses regularly express frustration about applications which they want to use and updates to their websites but are unable to do so due to a lack of a reliable connection or sufficient data.

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[37] SACOSS, 2015, 'Cost of Living Update', No. 22, March Qtr 2015, p.3

[38] SACOSS, 2015, 'Cost of Living Update', No. 22, March Qtr 2015, p.3

[39] Australian Government, 2015, 'Digital Transformation Office" available at: https://www.dto.gov.au/

Small Business

Question 9

What communications barriers have you experienced in expanding or operating your business or providing services, such as health or education? Have you been able to overcome these barriers and if so, how?

Question 10

What communication functions (for example, speed, mobility, reliability, data etc.) would best suit your needs, noting the limitations of each technology (for example, mobile, wireless, satellite, fibre)?

Communications are also essential for small business. ACCAN funded research by Market Clarity measured the severity of impact on small business of a one-day fault over various communications services. The study found 62% of fixed voice users would experience a serious or catastrophic impact; as would 47% of VoIP users; 66% of fixed broadband users; 55% of mobile voice users; 47% of mobile broadband users and 58% of EFTPOS users.[40] The current CSG recognises that small businesses are rarely in a better position to negotiate service quality than residential consumers and protects both equally. Given the high rate and severity of impact on small business there is a clear need for a basic safety net to extend to these users.

Small businesses have the potential to be engine rooms of innovation. Without reliable access to communications services regional small businesses are not offered the same opportunities to innovate as urban cousins.

Software, updates and programing are available online however, the limitations of the internet service can cause downloads to timeout, fail or use excessive data. Anecdotally we have heard of farmers downloading updates to a thumb drive in fixed coverage areas and manually upload programs to the machinery in areas with limited or no coverage. This is not an efficient solution but is the only one available to them.

Small businesses need to be innovative to enable them to remain competitive in the global economy. Farming is a key industry in

Paul operates a small outdoor recreation business in Echuca, Victoria. Most of his customers come from Melbourne, so he is reliant on a website and 1300 numbers to drive customers to his business.

Paul has consistently had problems with his landline phone over a number of years. He has had to permanently redirect 1300 calls to his mobile service after repeated dropouts. Before the problems started he would regularly book between 150-200 customers during school holidays, now he is down to 40 customers. He switched his services from Telstra to Commander in an attempt to fix the problem. He believes the impact of the problems have permanently damaged his business.

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[40] Market Clarity, 2013, 'Small Business Telecommunications Service Use and Experience', available https://accan.org.au/files/Market-Clarity-Small-Biz-Telecom-Service-Use-final.pdf p.9

regional Australia and the lack of reliable, affordable telecommunications is a major inhibitor to implementing new technologies.

Slow speed and low data allowances are prohibiting the use of cloud services and electronic lodgement of government forms. Small businesses continue to use traditional methods or some travel to the nearest town library to use the internet facilities to get the required level of service they need. As more traditional services disappear, this is becoming less sustainable.

Poor access to telecommunications is causing staffing issues for small businesses as they have difficulty attracting and retaining employees. If access to banking, on-line learning and an affordable means of contacting family are not available, they will often consider this when accepting a position or staying on in regional areas.

These restrictions limit small businesses access to many things urban based businesses take for granted, such as;
- educational / professional development opportunities
- real time market prices for their produce
- the ability to communicate with staff / family whilst working
- instructional product information for their plant and equipment
- ordering parts and accessories online
- online educational for their children and children of their employees

Question 9

What communications barriers have you experienced in expanding or operating your business or providing services, such as health or education? Have you been able to overcome these barriers and if so, how?

Regional businesses report a number of barriers, such as lack of reliable services, expensive services (often multiple services are required), limited data allowances (particularly during peak periods when needed) and slow responses and network outages. Furthermore there continues to be a lack of awareness (digital literacy, knowledge about services available).

Question 10 summary

What communication functions (for example, speed, mobility, reliability, data etc.) would best suit your needs, noting the limitations of each technology (for example, mobile, wireless, satellite, fibre)?

Speed, mobility, reliability and data are all important. Greater flexibility in products (e.g. in paying) is currently lacking. Technology has limitations but these can be overcome with the correct policies and a streamlined consumer protection framework. Priority caps, rather than hard data caps can address issues of limited data capacity. Initiatives such as Public Interest Premises by nbn™ can further address barriers faced by non-standard consumers.

Consumer Safeguards

> ### Question 11
>
> *Do we need to continue to guarantee the standard telephone service for all (or only some) consumers, and if so, to what extent?*

There are four main consumer safeguards. The Universal Service Obligation (USO) guarantees access to the Standard Telephone Service (STS) for everyone, regardless of where they live or work. The Customer Service Guarantee (CSG) provides incentives to ensure services are reliable for individual customers (e.g. setting timeframes for connection, fault repairs and appointments). The Network Reliability Framework (NRF) requires Telstra to report on repair and poorly performing parts of its network. Further protections are guaranteed for consumers who have medical conditions through Priority Assistance (PA). The four consumer safeguards are related, being all based on the STS. Given the changes in the consumer preferences and infrastructure, the consumer protections that are in place have become out-dated.

Access to Voice Services

The Universal Service Obligation provides for the provision of the standard telephone service (STS) to all consumers in Australia. The USO is under contract until 2032, with Telstra as the Universal Service Provider. The policy to provide access to the standard telephone service is a broken concept and has come under criticism in a number of reviews. The first regional review, The Glasson Review, in 2008 found that the current USO arrangements do not work well. It recommended a new framework and to provide for a 'Communications Services Standard (CSS)'. It recommended an "over-arching strategic and longer term framework that will provide assurance or guarantee necessary for consumers and providers to have reasonable certainty about future accessibility". The CSS they recommended should include:

- the voice standard must include internationally recognised voice quality measures
- the broadband standard must be equitable with services delivered by the NBN
- the mobile standard must be for hand-held mobile phones
- the payphone standard must include objective criteria for access to payphones, and in developing this standard consideration needs to be given to whether a standard is needed for public internet access.

The Sinclair Review in 2012 found that there was a lack of consumer awareness of the current protections and that consumers are particularly concerned about losing phone services. It also found that there were gaps in the consumer protections and that "it is not clear what arrangements are in place for maintaining or replacing non-copper network assets in the NBN non-fibre footprint, such as HCRC." They recommended that "the government and Telstra, as the current USO provider commit to maintaining the current quality of service for non-copper USO standard telephone services in NBN Co non-fibre served areas".

Neither of the findings of these reviews have been fully addressed. Consumers are still concerned about losing voice services and there are gaps in consumer protections. There is a valid question over the necessity of maintaining the USO in the new environment. Many consumers are switching from fixed line services to mobile services, as outlined above. There is no evaluation of how many consumers would not be provided with access to voice services, if the USO no longer was in place. There are a number of consumers that only have fixed phone services. It is important to ensure that these consumers are not disconnected from services.

The NBN has been tasked with providing everyone with access to a data service, which voice services can be delivered over. For the fixed footprint all voice services will be delivered over the NBN. The Universal Service Provider in these areas will act as a retailer of last resort. However, it is unlikely that any consumer in the 93% footprint would not have access to a voice service.

For consumers in fixed wireless areas, voice services can be delivered over the NBN or the remaining copper network. Consumers here will have the option of services. The wireless technology is proving to provide a reliable voice service. Consumers in satellite areas will be in a similar position; however, there are issues of latency (delay) and greater vulnerability to interruptions in services caused by weather conditions. Where the Ka band satellites are being used in other countries the latency between fixed phone and satellite appears to be minor.[41] However, for those calling satellite to satellite there is a greater issue.

ACCAN is currently working on the future policy options for the USO, including a research paper in collaboration with John De Ridder. This paper will be available in the coming months.

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[41] www.exede.com

> ## Question 11
>
> *Do we need to continue to guarantee the standard telephone service for all (or only some) consumers, and if so, to what extent?*
>
> The Universal Service Obligation is under contract until 2032. It would be detrimental to cease to provide access to the standard telephone service without replacing it with alternative services.
>
> NBN will be the primary supplier of the STS for 93% of the population. For these consumers the USO will become progressively outdated. For the remaining 7% the USO will likely be required for some period of time until the technology can be tested to see if it will adequately provide voice services.

Other Services

> ## Question 12
>
> *Are there new or other services, the availability of which should be underpinned by consumer safeguards?*

Existing consumer safeguards have failed to keep pace with shifting preference towards internet and mobile based communication. In June 2014 there were over 12 million internet subscriptions (excluding mobile handset subscribers), up 1% on the previous year.[42] In the same year there were 31.01 million mobile services, well beyond saturation point.[43] Meanwhile there were 9.19 million fixed line telephone services, 6.54 million of which were covered by the CSG Standard.[44] Given the importance of each of these services it is difficult to *only* justify protection over the STS.

In many cases the fixed line telephone is substitutable for mobile or VoIP services. VoIP in particular is rapidly increasing in popularity due to lower cost and technology improvements. In 2014 there were 4.87 million home VoIP users, a 28% (1.07 million users) increase in the last three years.[45] Over the same time fixed line telephone services declined by 1.35 million services.[46]

Internet and mobile connections have taken hold as the preferred communication methods for many Australians. The rollout of the NBN provides an opportunity to realign consumer safeguards around these new communication services without adding significant new costs to industry. As the NBN is rolled out the policy effort should be focussed on articulating the needs of consumers in a broadband environment. The NBN also has the potential to

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[42] ACMA, 2014, 'Communications Report 2013-14', p.19
[43] ACMA, 2014, 'Communications Report 2013-14', p.7
[44] ACMA, 2014, 'Communications Report 2013-14', p.7-8
[45] ACMA, 2014, 'Communications Report 2013-14', p.7; ACMA, 2011, 'Communications Report 2010-11', p.16
[46] ACMA, 2014, 'Communications Report 2013-14', p.7; ACMA, 2011, 'Communications Report 2010-11', p.16

streamline how services are delivered to consumers, with a single wholesaler able to provide most premises with voice, data and limited mobile (through voice over Wi-Fi).

The need for providing safeguards over voice, data and mobile services is well established. Voice and data protections are somewhat more straightforward in that they will be provided to a large extent by the NBN infrastructure under its Statement of Expectation with the Government and in some limited circumstances by Telstra's infrastructure as the Universal Service Provider.

Mobile creates some difficulty in that by its nature and without universal coverage it is not designed to work everywhere. Many regional consumers face difficulty getting mobile coverage in their home and business, let alone elsewhere. This makes a policy solution for universal access and service standards particularly difficult. However, technology may have a role to play in partially solving these challenges.

Voice over Wi-Fi or Wi-Fi calling is a service which is already offered in the comparable markets of the US and UK.[47] The service does not require a third party app (e.g.: Skype) and allows mobile calls and texts over a Wi-Fi connection. It operates similar to a mobile cell tower, but instead uses pre-existing Wi-Fi infrastructure to connect to the network. Optus is expecting to announce the service in mid-2015, with other networks likely to follow.[48]

This has the potential to be a benefit for regional consumers if it can overcome lingering problems with in-home mobile coverage. Additionally it simplifies a policy guarantee over mobile service. So long as the underlying broadband service is subject to a guarantee, by de facto consumers will have a guarantee over mobile calls within range of their Wi-Fi.

> Recommendation 8: A communication framework should be established which guarantees a range of services (voice, data and mobile).

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[47] http://www.cnet.com/au/news/what-you-need-to-know-about-wi-fi-calling-in-australia/
[48] http://www.itnews.com.au/News/405817,optus-set-to-be-first-with-voice-over-wi-fi.aspx

> ## Question 12
>
> *Are there new or other services, the availability of which should be underpinned by consumer safeguards?*
>
> The advent of the NBN provides a unique opportunity for consumer safeguards to be extended to new services without necessarily adding new cost across the industry. nbn™ has been tasked with building, designing and operating an Australia-wide broadband network. The Statement of Expectation from the Government makes it clear that nbn™ is proportionately responsible for the quality, consistency and continuity of service experienced by Retail Service Providers and their end users.[49] Access to and safeguards on voice, data and mobile should apply for consumers.

Standards

> ## Question 13
>
> *What standards should apply to your services? How might they best be enforced?*

The other consumer safeguards - the Customer Service Guarantee (CSG) and the Network Reliability Framework (NRF) were developed to address reliability in providing the STS. The CSG, when initially created, applied to all telephone companies to ensure "that customer service levels are not only maintained but enhanced".[50] It was recognised that all telecommunications services required protections. As outlined below, there are no protections in the Australian Consumer Law for these services.

The CSG however, has been degraded since its introduction. Providers can waive their obligations and provide services not covered by the CSG. Likewise the NRF is limited in its effectiveness. It is not an obligation on all network providers, applying solely to Telstra. This is particularly important in a policy environment which supports competition in the provision of networks. Safeguarding a reliable network for all consumers cannot be delivered through an obligation that applies to only one network.

Telecommunications services are exempt from the application of guarantees under the Australian Consumer Law.[51] Telecommunications, along with gas and electricity supply, are exempt due to 'special policy considerations'. Specifically, the interconnected nature of supply means many consumers may be affected by a single outage. These services are "crucial to many areas of human activity such that the consequential losses experienced by consumers can in some instances be substantial".[52] This exemption was granted on the

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[49] Australian Government, 2014, 'Statement of Expectation', available at:
http://www.nbnco.com.au/content/dam/nbnco2/documents/soe-shareholder-minister-letter.pdf
[50] Robb, A, 1996, 'Privatisation, Liberal and National Parties' Policy for the 1996 Federal Election', Better Communications, printed and authorised by A Robb, Melbourne, p.28
[51] *Competition and Consumer Act 2010, Schedule 2, section 65*
[52] *Explanatory Memorandum – Trade Practices Amendment (Australian Consumer Law) Bill (No.2) 2010* p.193

grounds that due to these special policy considerations standalone legislation was required to deal with consumer issues in relation to telecommunications supply.

Due to the ad hoc nature of policy development in this area and the historical importance of voice telephony, this standalone legislation has almost entirely focussed on protecting the STS. Unfortunately this has meant the legislation has failed to keep up with consumer demand and technological change. As such, crucial services such as internet and mobile have limited safeguards relative to service standards. This gap in consumer protection brings into sharp focus the need to extend safeguards to a broader set of communications services.

There are no equivalent service standards on nbn™ beyond its Service Level Agreements. However, these are not enforceable by end users and there is little to incentivise ongoing service standards. It is clear that many gaps are developing, and continuing, in consumer safeguards, including:

- provision of services to customers who do not fit into the standardised model
- guaranteed safeguards for IP, mobile and voice services.

The CSG and competition

The interaction between competition and service standards is important in developing adequate consumer safeguards. Competition has the potential to greatly improve the level of service as providers compete for customers by offering better products. This has led some to believe that legislated standards are not required. Modern competition and consumer policy recognises that there are unique constraints on the level of competition over telecommunications infrastructure, such as natural monopolies. There are also general constraints on consumer decision making when choosing appropriate services that must be taken into consideration.

Natural monopolies

Telstra's copper network is a natural monopoly, because of the significant cost in building the initial network, and its capacity to serve the majority of premises, there is limited economic incentive for the market to build a second overlapping network to compete.

Where natural monopolies exist, consumers tend to suffer through higher prices and lower service standards. In these situations it is sound competition policy to drive performance through a combination of service standards, access regimes and structural separation.

The need for each of these measures will not change as more services are provided over the NBN. There is an argument that the inbuilt structural separation of wholesale and retail services over the NBN will solve the competition problems experienced over the Telstra network. Moreover, this is only half of the solution. Without enforceable service standards consumers and retailers will be largely at the mercy of the wholesale supplier for the provision of connections, fault repairs and appointment keeping. Service Level Agreements do exist however these will need to be reviewed as NBN reaches scale. This review needs

not just to not just consider the appropriateness of the timeframes, but surrounding measures to drive continual improvement but also future obligations and arrangement for independent oversight.

Consumer decision making

Behavioural economic studies show there are limitations on consumer decision making. A properly functioning market is reliant on consumers being armed with perfect information to weigh various offers. The basic principle of a free market is that consumers will direct their purchasing decisions towards optimal outcomes. For example, if a communications service is essential a consumer may be willing to pay for a higher level of service to ensure it is reliable.

The research shows the reality of the telecommunications market is far from this ideal. Consumer decision making is a very complex process that does not always lead to optimal outcomes.[53] In reality, rather than rationally weighing decisions consumers have a tendency towards acting on a variety of personal preferences, biases and ways of processing information.[54]

The CSG to a large extent is aimed at correcting faults and providing interim services if something goes wrong on a service in the future. When combined with the limits on the amount of information a customer can take in when choosing a product, it is unlikely service standards will be the primary focus of a consumer shopping for a telecommunications product. If service standards do not feature heavily in consumer decision making service providers are unlikely to compete strongly on these measures.

This understanding is implicit in the Australian Consumer Law, which sets out among other protections, a set of consumer guarantees and unfair contract terms. These provide safety-net protections to consumers and obligations for suppliers.

Is competition damaged by the current safeguards?

Despite claims from industry to the contrary the current CSG allows a wide degree of competition in service standards. Providers are free to compete on timeframes above those laid out in the CSG. All providers, barring Telstra, as the Universal Service Provider, have the ability to waive obligations under the CSG. Despite this waiver ability all but one major provider (TPG) has decided to keep the CSG in place for their Standard Telephone Service (STS). The CSG standard in effect has become the competitive baseline which providers aim to meet.

However, to date, competition alone has not delivered improvement to customer service standards above those in stipulated in the CSG. This is despite over 15 years of operation and a plethora of retail providers entering the market.

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[53] Deakin University and ACCAN, 2011, 'Seeking straight answers: consumer decision-making in telecommunications', p.11
[54] Deakin University and ACCAN, 2011, 'Seeking straight answers: consumer decision-making in telecommunications', p.11

To reduce perceived over-regulation industry has sought to remove key components of the CSG and NRF. The stated justification is that the market is now sufficiently competitive to deliver appropriate service levels without the need for government intervention. The evidence above suggests that taking such an approach may not lead to optimal market outcomes and may in fact drive down performance standards on an essential service. Therefore ACCAN maintains that some form of guarantee needs to continue and policy effort should be placed on creating fit-for-purpose safeguards over new services.

ACCAN member feedback on the limitations of the existing CSG

Consumers see the CSG core principle, of providing a basic safety-net for connection, fault repair and appointment keeping, as sound. However, feedback points to real problems in two key areas:

1. Failure to take account of shifting consumer preference towards internet and mobile based communication.
2. Frustration with the current Standard (e.g.: too many exemptions to performance timeframes and benchmarks, blame shifting between wholesale and retail suppliers and low levels of satisfaction in provider compliance).

Any redeveloped guarantee needs to pay close regard to not only the calls for expanded coverage of services, but the operational limitations of the existing Standard.

Access to mobile services is being improved by the Mobile Black Spot Programme. However, this policy is not designed to address universal access issues or service standards.

It is clear that many gaps are developing, and continuing, in consumer safeguards, including:

- provision of services to customers who do not fit into the standardised model
- guaranteed safeguards for IP, mobile and voice services.

TIO complaints on non-CSG services

There were a high number of Telecommunication Industry Ombudsman (TIO) complaints in 2013-14 about fixed line telecommunication services which are not eligible for CSG protection.[55] As already mentioned, a guarantee over these services is specifically exempted by the Australian Consumer Law (ACL) and consumers generally have limited protection under standard form contracts with a supplier. Without a specific protection like the CSG consumers are left with no adequate remedy to these complaints.

- 6,737 complaint issues about **delays in connection** related to non-CSG eligible telecommunications services
- 5,646 complaint issues about **delays in rectifying a fault** on a non-CSG eligible service which left the service **completely unusable**.

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[55] TIO, 2014, 'New complaint and investigation issues 2013-14'

- 6,407 complaint issues about **call drop outs** on non-CSG eligible services
- 580 complaint issues about **delays in rectifying a network outage** on a non-CSG eligible service, or the **frequency of outages** occurring on that service
- 1,249 complaint issues about **missed appointments** related faults and connections for a non-CSG eligible telecommunications services.

Combined these represent more than a third of all TIO complaint issues related to connections and faults.[56]

To put these figures in context, ACCAN commissioned research shows that a large number of telecommunications complaints never make it to the TIO.[57] Only 64% of Australians who experience a problem take a complaint to their provider. Of those that make a complaint to their provider, 38% are dissatisfied with the outcome. Of those who are dissatisfied, a mere 9% follow up this complaint with the TIO. To put this in perspective, of about 8.58 million Australians reporting problems, only about 2% are eventually represented in TIO complaint statistics. These complaints represent the tip of the iceberg of problems with non-CSG eligible services.

Anecdotally ACCAN has heard of consumers going to the lengths of bundling a broadband service with a CSG service simply to receive the improved connection, appointment and fault rectification timeframes on the line.[58] This of course is an imperfect solution as faults will not always impact a voice and a broadband service equally.

Limitations of the CSG

Service standards (e.g. CSG and NRF) are analogous to guarantees under the Australian Consumer Law. The basic principle is that a service will be delivered with due care and skill, be fit for purpose and supplied within a reasonable timeframe. The current CSG represents an attempt to codify some of these reasonable expectations when it comes to appointment times, new connections and fault rectification. The NRF represents an attempt to ensure that the product is fit for purpose.

The reason for not simply leaving this to the consumer law is that communications are an essential service and a level of prescription is required to ensure consumer detriment is minimised. Leaving enforcement to litigation alone is less efficient than a framework, such as the CSG, which both guarantees standards and incentivises performance.

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[56] TIO, 2014, 'New complaint and investigation issues 2013-14'
[57] Galaxy Research, 2015, 'Telco and ISP Complaints', available at:
https://accan.org.au/files/Media%20Releases/ACCAN%20Galaxy%20Survey%20May%202015.pdf
[58] http://forums.whirlpool.net.au/archive/2369600

The Statement of Expectation from the Government makes it clear that nbn™ is proportionately responsible for the quality, consistency and continuity of service experienced by Retail Service Providers and their end users.[59]

Realistically, during the transition to NBN these needs will have to be balanced against the capabilities of NBN and Retail Service Providers to deliver on timeframes. We anticipate this will be a staged process with the aim to improve the customer service safety net as service providers' transition from the build to the maintenance phase.

New standard

A new standard should be developed that applies to the different levels of service provision. This should combine standards on the wholesale and the retailer. The core principles of a reframed standard should attempt to:

- Take a staged approach and factor in limits on nbn™'s current capabilities.
- Transition to a standard which has realistic connection, appointment keeping and fault repair timeframe once nbn™'s capabilities are established.
- Apply to the wholesale and retail provider for new connections.
- Fault repairs need to focus on keeping customers connected (e.g. alternative and interim services)
- Retail benchmark performance need to be independently maintained by the ACCC and published to incentivise competition
- Ensure consumers have recourse similar to guarantees under the ACL when a telecommunication service is not fit for purpose. For example, to allows consumers to switch providers without breaking contract if the service if faulty or below standard.

> Recommendation 9: A new Standard should be developed that applies to the different levels (retail and wholesale) of service provision.

Gary lives and works on a farm in rural Western Australia. He has no mobile coverage and is reliant on a fixed copper service for voice and satellite for internet. He is a priority assistance customer.

Gary has experienced continuous faults on his phone line; call drop outs, no phone service, static and noises on the line.

Over the entire period Telstra only paid compensation totalling $914.76 after claiming multiple exemptions from the CSG. These exemptions were for issues such as; administrative errors, claims no faults existed, mass service disruptions etc.

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[59] Australian Government, 2014, 'Statement of Expectation', available at:
http://www.nbnco.com.au/content/dam/nbnco2/documents/soe-shareholder-minis

Question 13

What standards should apply to your services? How might they best be enforced?

A new Standard should be developed that applies to the different levels of service provision. This should combine standards on the input of services, the network reliability, on the wholesale provider. The core principles of a reframed standard should attempt to:

- Take a staged approach and factor in limits on nbn™'s current capabilities.
- Transition to a standard which has realistic connection, appointment keeping and fault repair timeframe once nbn™'s capabilities are established.
- Apply to the wholesale and retail provider for new connections.
- Fault repairs need to focus on keeping customers connected (e.g. alternative and interim services)
- Retail benchmark performance need to be independently maintained by the ACCC and published to incentivise competition
- Ensure consumers have recourse similar to guarantees under the ACL when a telecommunication service is not fit for purpose. For example, to allows consumers to switch providers without breaking contract if the service if faulty or below standard