<h1 align="center">Submission to the *draft* Migration Assurance Policy</h1>

The rights of individuals to self-determination and participation in social, political and economic life are recognised and supported by Articles 1,[1] 3[2] and 25[3] of the *International Covenant on Civil and Political Rights 1966*.[4] Article 1 of the United Nations' Human Rights Council's *Resolution on the Promotion and Protection of Human Rights on the Internet* of July 2012 confirms individuals have the same rights *online* as *offline*. Access to the internet is essential and as such the UN:

> Calls upon all States to promote and facilitate access to the Internet and international cooperation aimed at the development of media and information and communications facilities in all countries (Article 3)

Accordingly, access to the internet *per se* is a fundamental human right, which requires direct State recognition *and* support.[5] The obligations of the State to ensure its citizens are able, <u>and</u> are enabled, to access the internet, are not matters that should be delegated to commercial parties. Quite simply – access to the internet, and high-speed broadband, by whatever means are *"essential services"* and therefore *"should be treated as any other utility service"*.[6]

In this context, the stated expectations on individuals as end users, as well as those to be imposed upon other parties, as contained within the draft *Migration Assurance Policy* need to be reconsidered. One clear oversight is that there is no stated 'Role of the Government' in the documentation. A forward that articulates *"Government priorities"* is not the same and does not have same impact as a clearly articulated 'role'.

The stated expectation on the Consultation webpage is that Australia's transition to the NBN will put *"the customer at the centre of the migration process"* with the goal being *"to minimise disruption to end-users, prioritise continuity of service and target vulnerable end-users for assistance."* To that end it is noted that the *Migration Assurance Principles* provide *inter alia* that:

- Migration should be an end-user focussed … activity; and
- Provision of migration information should be timely, accurate and consistent.

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[1] *All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.*

[2] *The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth ...in the present Covenant.*

[3] *Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:*
> *(a) To take part in the conduct of public affairs, directly or through freely chosen representatives;*
> *(b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;*
> *(c) To have access, on general terms of equality, to public service in his country.*

[4] Australia became a signatory to the Covenant on 18 December 1972, noting:
> "Australia has a federal constitutional system in which legislative, executive and judicial powers are shared or distributed between the Commonwealth and the constituent States. The implementation of the treaty throughout Australia will be effected by the Commonwealth, State and Territory authorities having regard to their respective constitutional powers and arrangements concerning their exercise."

[5] Cradduck, Lucy. *Individuals, Innovation, and the Internet: Why Access is Essential* (Common Ground Publishing, 2015).

[6] Cradduck above n 5 , p.192. As the UK House of Lords has more recently recognised and as a consequence has called for the UK government to *"define the internet as a utility service that is available for all to access and use."* See - House of Lords (2015) "Make or Break: The UK's Digital Future", *House of Lords Select Committee on Digital Skills,* Report of Session 2014-15, HL Paper 111, 17 February 2015, p.29 at Paragraph 43:
> **We agree with our witnesses who urged that the Government should define the internet as a utility service that is available for all to access and use. This is the bedrock of digital competitiveness.**
Also see p.95 at Paragraphs 305-306:
> *305. Objective 1: The population as a whole has unimpeded access to digital technology.*
> *306. This includes:*
>> *(a) facilitation of universal internet access: the internet is viewed as a utility; and*
> *(b) removal of 'not-spots' in urban areas.*

It is submitted that the issues of particular relevance to individuals that need to be addressed, and appear not yet to be adequately considered, are:

1. Costs – of transition, new equipment and ongoing access
2. Awareness raising of issues
3. Availability of services
4. Acquisition of appropriate digital literacy

Individuals need direct, easy to read and location-specific information provided to them as to *what, when and how* they will access the NBN.[7] In the circumstances of the ongoing variations to Telstra's Migration Plan as regards Disconnection Dates,[8] it is imperative for individuals properly and proactively to be informed directly by the *Government* (through the Department of Communications) as to what is happening and what to expect in the process. With respect, advertisements with giant lady bugs or rocket couches, while amusing, do not provide the appropriate (nor accurate) information that individuals require in order to understand their obligations or what to expect from the services once available.

Cost will be a primary concern for many users. Even those who want only the most basic service will have ongoing monthly costs payable to a provider in order to remain connected to the NBN and internet services. Importantly, many Australians may not be in a position to commit much more of their budgets for higher speed broadband access or services. A financial assistance policy facilitating, *inter alia*, the acquisition of relevant hardware and software may assist with the adoption and maintenance of NBN access. Inspiration can be taken from the assistance provided as Australia moved from analogue to digital television.

As part of the lengthy transition to digital television[9] various assistance and information packages were made available.[10] For example, Eligible rural and/or remote households also were entitled to a special subsidy of $400 to assist them to *"convert to the new satellite service"*.[11] Other available assistance measures for digital television adoption included, as part of the Retail Advisor Scheme, the provision of digital advisers who were available to provide advice to consumers at the time of purchase of new equipment.[12] In-home assistance also was provided to eligible households.[13]

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[7] A point to note is that, despite a number of years of researching in this area, the consistent message that I receive when checking to see when the NBN is 'coming my way' is *"The rollout of the **nbn™** network has not started yet in this location."* (my most recent online check being undertaken at 1:58 pm 20 August 2015). The obvious information I personally need is quite simple: *When will the NBN arrive for me?*

[8] Telstra Corporation Limited, *Telstra Migration Plan and the transitional arrangements for In –Train Orders July 2015,* 27 July 2015 http://www.accc.gov.au/system/files/Telstra%20Migration%20Plan%20and%20the%20transitional%20arrangements%20for%20In%20%E2%80%93Train%20Orders.pdf . And see ACCC's letter to Telstra of 14 August 2015 https://www.accc.gov.au/system/files/Letter%20from%20ACCC%20to%20Telstra%2014.08.2015.pdf re the ACCC's agreement.

[9] While not the subject of this Consultation, it must be noted that even the extended Disconnection Dates appear inadequate in comparison with the staged transition to digital television. The transition to digital television, which was finally achieved throughout Australia in late 2013, took many years. It commenced in 1999, when the then federal government determined that broadcasters were required to continue transmitting in standard format for several years so that *"people* [will] … *have the choice to buy SDTV equipment to ensure that digital television will be as affordable as possible for ordinary"*[9] Australians. See DCITA, Report on Digital Television Reviews, 2000, Volume 1, 10 May 2000, 60.

[10] DBCDE, 'Switchover to digital TV', 5 January 2010, Fact Sheet, – assistance includes a public awareness campaign, the Household Assistance Scheme, the Digital Switchover Labelling Scheme, and the Retail Advisor Scheme. Some assistance is linked to rights to obtain certain social security benefits.

[11] Conroy, Hon. S, 'Landmark agreement to deliver Digital TV to Remote, Regional and Blackspot viewers', Media Release, 14 April 2010

[12] Conroy, Hon. S, 'The right advice to get ready for digital TV', Media Release, 14 October 2009 – these are referred to as *"digital advisers"*

[13] Conroy, Hon. S. 'Assistance for households switching to digital TV', Media Release, 3 June 2009 – to be eligible *"households must have at least one resident who is receiving a maximum rate Age Pension, Disability Support Pension, Carer payment, or Department of Veterans' Affairs (DVA) service pension or the DVA income support supplement payment."*

As part of the roll-out of skills necessary for ongoing transition to the NBN, it will require the provision of programs to proactively raise community awareness about the benefits of high-speed broadband access _and_ how to use the services that will be available _and_ how to go about acquiring future skills that may be needed to ensure ongoing engagement. Related programs could include classes in local libraries as well as site visits to rural or remote locations, and online and telephone support.[14] Benefits also could be gained from advisors engaging with residents while cable is rolled out in their street or in their area.

As has already been experienced, without appropriate awareness of the benefits of high-speed broadband and assistance to connect, a vast majority will not have the incentive to be early adopters of the NBN. Where users are not already engaged in the internet economy they will need more than just cute lady bugs to encourage adoption. Broad funding of programs for individual enablement will be required in addition to _Government_ information campaigns focussed on accurate and timely and time-focussed information provision. What is required is clear, targeted, community based awareness-raising and training as to the types the services, content and sites that will be available, how to access them and what equipment will be required in order so to do.[15] Information brochures must be easy to understand and targeted to what must be done.

Assistance may need to be provided on an ongoing basis. An appropriate policy could enable the provision of financial assistance packages to ensure that eligible Australians are able to adopt as well as maintain NBN access. This could provide subsidies to eligible persons to assist them to acquire hardware and software, cover in-home training to enable them to undertake NBN-specific and general computer skills training, and enable them to maintain their connection. As previous European experience shows,[16] specific attention needs to be given to those in rural areas. Extra financial assistance may be required for those living in remote areas _and_ will be required for Australians with disabilities to enable full access by them.

Australians with financial or physical difficulties may not be the only ones requiring assistance. General information and assistance from reputable suppliers may need to be made available to all Australian.[17] This could be provided on the basis that, for the payment of a fixed, nominal fee, a qualified person would attend at the individual's home to review their current access methods, computer equipment and software, and make recommendations for upgrading as necessary. To ensure safety, impartiality and privacy, the qualified person should not be permitted to refer to any business with which they have an association, and would have confidentiality conditions imposed by the terms of their appointment contract.

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[14] Various projects were previously funded under the Howard government's 'IT Training and Technical Support Program' http://www.archive.dbcde.gov.au/2010/january/it_training_and_technical_support_program. (viewed 10/11/2010) For example – telecentres providing public internet access and technical support in Western Australia (the 'Future Skilling Outback WA' project); basic IT training, online support and one-on-one assistance and site visits in very remote areas in north and central areas of South Australia (the 'Outback Connect' project); providing community based basic IT training focused on online banking, email and internet access in central Australia (the 'DESART Remote Art Centre Training and IT Support Project) and the Northern Territory (the 'Pintubi Anmatjerre Warlpiri' project); comprehensive basic IT training course and provide technical support through phone, email and face-to-face assistance (the 'Learning Network Queensland'); and IT training and technical support provided through public libraries and Indigenous Knowledge Centres (State Library of Queensland Taking IT on – Matching access with need in Indigenous communities' project. See – Coonan Hon. H, 'IT Training and Technical Support program, Media Release, 21 December 2004

[15] For small business owners, a program similar to that previously available to Tasmanian tourism may be appropriate. See – Tourism Tasmania, 'Digital Coach Program' – _"Tourism Tasmania's Digital Coach Program helps operators improve their website, market their business better and make online opportunities work for them. Tourism Tasmania developed the Digital Coach program in direct response to requests from tourism operators. Since then, over 230 people have completed Round One of the program with Round Two launching in October 2010. The FREE program gives participants access to seven experts in online marketing and distribution who work with participants as coaches."_

[16] European Commission, 'Study on Availability of Access to Computer Networks in Rural Areas', _Final report,_ Nov. 2007

[17] For example a package similar to the former ClimateSmart Home Smart service provided by the Queensland government for electricity consumption Queensland Government, 'ClimateSmart Home Service' http://www.climatesmarthome.com/home_service.html

Easy access to reliable help at any time of the day may be of particular assistance for house-bound or older Australians. A Department telephone helpline service may be useful as a first point of contact for these individuals. The service could provide non-technical assistance as well as the ability to refer the individual to more specific technical information and qualified service providers.

Finally, while a complaints process or redress mechanism is essential; the focus of the *Policy* should not be on what to do if a problem arises but how to prevent this occurring in the first place.

Dr Lucy Cradduck

20 August 2015