



10th June 2020

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Telecommunications in New Developments Policy

ACCAN thanks the Department of Infrastructure, Transport, Regional Development and Communications for the opportunity to comment on the Telecommunications in New Developments (TIND) policy. ACCAN is Australia's peak communications consumer organisation representing individuals, small businesses and not-for-profit groups as consumers of communications products and services.

We are supportive of the policy objectives; to provide people moving into new developments with ready access to modern telecommunications, both voice and broadband; and to support a competitive and sustainable market for the provision of such infrastructure. ACCAN sees no reason why any new development should not be built with modern telecommunications given that it is an essential service. Ensuring the provision of such infrastructure is competitive and sustainable should safeguard the long-term interests of end users.

Consumer outcomes

ACCAN strongly agrees that people moving into new developments should have ready access to modern telecommunications which are of high quality. Consumers need access to the best and most resilient communications infrastructure to support community growth and economic well-being.

Before an occupant takes possession of a new premise, they should be able to know which telecommunications services will be available to them and what the costs are. However, ACCAN believes that it should be the developer's responsibility to provide this information during the purchasing process, not only at the request of a potential buyer. ACCAN also considers it important that this information be made readily available to renters. Whilst potentially out of the scope of this policy, we believe corresponding arrangements should be put in place to ensure landlords are obligated to provide this information to tenants. Having to provide this information upfront to potential buyers would incentivise developers to supply the best telecommunication services in order to make the property more attractive.

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Developer responsibilities

ACCAN agrees that developers should be responsible for organising and meeting the costs of pit and pipe infrastructure and telecommunications network infrastructure in their developments. Telecommunications is like any other utility and should be provided during the build to ensure it is ready when occupants move in.

Exemptions from pit and pipe requirements

Generally, ACCAN is opposed to exemptions from the requirement to provide pit and pipe infrastructure as fibre-ready facilities provide the best outcomes for consumers. However, we are aware that for areas being serviced by wireless or satellite services it may not be feasible to supply fixed line technology. Thus, the exemption policy needs to be extremely tightly controlled. This should involve consideration of issues such as the size of the development, public safety and reliability, all of which need to be taken into account when providing exemptions from pit and pipe requirements.

SIPs and Infrastructure Providers

ACCAN strongly supports the Telecommunications Reform Package and the establishment of the statutory infrastructure provider (SIP) obligations. Once a carrier contracts to provide infrastructure in a new development, that carrier becomes the SIP for that development, and the SIP will need to connect premises and supply wholesale services so retail providers can supply broadband and voice to consumers at those premises. The new statutory infrastructure provider legislation creates obligations for NBN (as default SIP for Australia) and other carriers who roll out networks in new developments.

The Telecommunications Reform Package allows for the Minister to make standards, rules and benchmarks that apply to SIPs. In order to support services that perform with a high level of reliability and consistency, ACCAN considers the Minister should develop service performance standards to ensure that the quality of telecommunications provided to new developments is maintained and strengthened. The standards set should be reflective of the essential role of telecommunications as well as the monopoly power SIPs have. This is discussed further below under the *network and service standards* heading.

Access technology

Consistent with the SIP requirements, the technology must enable the carrier to supply wholesale services to retail providers that will allow the supply of broadband services to end users with peak download speeds of at least 25 Mbps and peak upload speeds of at least 5 Mbps. ACCAN believes that this minimum standard is essential to ensure that everyone who moves into a new development has access to high speed broadband and can participate in the digital economy fully.

Adjacency to NBN Co's long-term fixed line footprint

Where NBN is servicing a new development that is 1 kilometre outside but adjacent to its long-term fixed line footprint, it should be required to install fixed line technology. Fixed line technology has greater potential at providing faster, future proof services compared to wireless or satellite, therefore any attempts at increasing NBN's fixed line footprint will benefit consumers as they will have greater access to better technology. For this reason, NBN should be obliged explicitly to build fixed line infrastructure within 1 kilometre of its fixed line footprint. In addition, ACCAN believes the policy should have a broader scope and extend the requirement to build fixed line infrastructure well beyond 1 kilometre of the fixed line footprint.

However, if our preferred approach is not adopted and there are instances where NBN decides not to provide fixed line infrastructure to developments adjacent to the fixed line footprint, NBN should seek an exemption from the Minister before the installation, as opposed to providing a report retrospectively.

The current pandemic has highlighted how important high-speed communication services are for households working remotely and receiving an education. ACCAN has received reports of households receiving satellite services who are unable to carry out multiple tasks (such as telework and remote learning) at the same time. This enforces that need that wherever possible, the infrastructure with the most capacity should be installed.

Charging

ACCAN has longstanding concerns over charging arrangements for infrastructure in new developments. Developers often seek to obtain infrastructure services at the cheapest possible price, irrespective of the underlying quality of the infrastructure.

The policy imposes a ceiling on the amount NBN is entitled to charge developers for providing infrastructure. The policy's purpose is to *'protect developers and occupants from costs that might otherwise discourage them from accessing telecommunications.'* Putting downward pressure on the cost of supplying infrastructure will certainly encourage developers to provide telecommunications infrastructure.

However, ACCAN has concerns regarding unintended consequences of the price ceiling and what this will mean for end users. ACCAN hopes that the cap will prevent carriers from competing on price and therefore focus on improving quality in order to attract developers. A uniform price would prevent developers from choosing an infrastructure provider simply on price alone. However, an adverse situation may arise where carriers continue to compete on price and in order to provide a cheaper service, lower the standard and quality of the infrastructure. A race to the bottom such as this would be to the detriment of the occupants of the properties.

For this reason, it is even more vital that the SIP performance obligations ensure quality of infrastructure is maintained.

Competitive infrastructure provisioning ('overbuilding')

ACCAN is supportive of the premise that competition in this market can promote strong outcomes for consumers and promote the provision of high-speed broadband services at least cost. However, we note widespread information asymmetries on network availability have undermined the potential for competition to be a driver of strong outcomes for potential purchasers and residents. This creates the need for the development and monitoring of industry standards.

Access to NBN Co's backhaul and business to business interface

ACCAN has concerns that the access to NBN's backhaul and business-to-business interface, intended to increase the number of retail providers on networks, has not been utilised. A consumer serviced by a network with a limited number of retail provider can be significantly impacted. Being provided a limited choice means a consumer may not find a service which suits their needs. While headline download speed is usually the most quoted and influential factor, the upload speed, data allowance, customer service record, service guarantees and bundled or additional products offered, such as

streaming services, are increasingly important. Networks which have limited retail providers may not offer consumers the range of products which they require. Again, this highlights the importance of network and service standards.

Competitive safeguards and competitive neutrality

ACCAN supports the policy to create a competitive telecommunications market which is fair and subject to competitive safeguards. Due to NBN's position in the market, we believe that it is necessary for NBN to seek approval from the minister for decisions to build competing infrastructure in new developments rather than provide records of the decisions retrospectively.

Network and service standards

ACCAN questions the idea that market forces should be solely relied upon to ensure developers select the most appropriate telecommunications networks in their developments for a number of reasons:

- 1) Whilst high quality telecommunications networks will make a development more attractive to buyers or tenants, this is one feature out of many in which consumers may consider. There are arguably more salient features which determine whether individuals buy or rent a property. For example, a developer who builds in an area with a housing shortage may supply sub-optimal telecommunications as the demand for their property will already be high.
- 2) The cost of a property and income constraints faced by occupants is arguably the determining factor whether someone chooses to buy or rent. Consumers on lower incomes may be priced out of properties which contain high quality telecommunications. ACCAN believes that access to decent telecommunications infrastructure should not depend on an individual's income.
- 3) There are significant information asymmetries that exist between developers and carriers. Currently there is limited reporting on service levels or the escalation of complaints to the TIO for services in operation in TIND areas. Developers often do not have access to the relative performance of non-NBN infrastructure providers and therefore cannot make decisions based on service standards. If the developer makes a decision based on cost alone, we would expect this to result in poor consumer outcomes.
- 4) Similar to developers, end users also face information asymmetries. In the absence of detailed information regarding the relative performance of infrastructure providers, the benefits of competition are unlikely to flow. Even where consumers are aware of the performance and service standards of a particular carrier, they are often not able to signal their preferences to developers.

The result of this is that non-NBN networks can exercise monopoly pricing power to set charges in excess of those observed in competitive markets, there is underinvestment in network infrastructure and backhaul resulting in poor quality services being delivered to consumers and there is delayed rectification of service faults.

The SIP legislation which sets baseline requirements for access technologies and speed requirements in new developments is welcomed. However, additional service standards such as timeframes for connections, rebates for missed appointments, appointment keeping arrangements etc. need to be considered. ACCAN believes that the comprehensive service standards the ACCC are developing through *NBN's Wholesale Service Standard Inquiry* should be adopted for all networks in new

developments. This will ensure a minimum level of service standards is achieved across all networks and all consumers will benefit regardless of income or how well informed they or the developers are.

Awareness raising and compliance

ACCAN welcomes the continuing commitment for the government to work with relevant parties to maintain and raise awareness among all developers of the need to install appropriate telecommunications infrastructure in new developments.

Developer compliance in this aspect will determine whether people moving into new developments are able to access modern telecommunications. Therefore, for this policy objective to be successful, ACCAN believes that there needs to be more awareness of the obligations developers face. Thus, ACCAN supports the government in working with state, territory and local government on telecommunications in new developments. Local and state level planning should provide information and legal notices to prospective developers regarding their obligations. The information provided to developers needs to be comprehensive and well timed to allow enough time for carriers to install network infrastructure before people move into premises.

ACCAN thanks the Department for the opportunity to contribute to this important consultation. Should the Department require further information or clarification concerning any of the issues raised in this submission please do not hesitate to get in contact.

Yours sincerely,

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Economic Advisor.