Submission by TPG Telecom Limited

to the

Department of Communications and the Arts

Telecommunications Legislation Amendment (Competition and Consumer) Bill 2017 and Telecommunications (Regional Broadband Scheme) Charge Bill 2017

February 2017

1. Governmental intervention in the telecommunications industry appears to be reaching all-time highs. These bills evidence that the re-regulation of the telecommunications industry is in full swing.
2. Far from striving to achieve its stated ambition of reducing red tape and "being open for business", these bills evidence that the Government appears set on pushing ahead with legislative initiatives that have the outcome of motivating the reduction of fixed line infrastructure-based competition.
3. The bills introduce:
    a. new restrictions which will have the effect of limiting private investment into the market and devaluing investments that were lawfully made by private investors;
    b. new bureaucracy for private investors to grapple with in order to even attempt to compete; and
    c. new taxes on private investment.
4. TPG has always believed that competition provides the best benefits for consumers. Monopolies have generally yielded poor outcomes for consumers, particularly government run monopolies. As a country, Australia has been at its most successful when private investment has been allowed to flourish, such that flexible businesses are able to quickly meet consumer demand without government intervention.
5. In the telecommunications industry, Australia went to considerable effort to bring competition to the market and the ACCC's reports on competition in the market have highlighted over time the introduction of innovative products and the reduced costs to consumers that have been the outcome of that competition, particularly infrastructure-based competition.
6. These bills are designed to entrench the return to a government owned monopoly, the National Broadband Network. Any person who believes in the benefits of infrastructure based competition and the economic benefits of a free market should be opposed to these bills.
7. The objective for these bills appears to be the protection of the NBN business model against competition by imposing on private companies that supply fixed line services in competition the regulatory burdens of:

    a. structural separation or an ACCC approved functional separation undertaking; and
    b. a circa $7.09 per month per customer tax.
8. The bills will not protect the NBN business case. The NBN business case is already broken and will continue to be broken by parties with the power to do it, notably Telstra and Optus. Telstra has recently demonstrated the capability to supply download speeds of 1Gbps on LTE[1].
9. Wireless superfast broadband is a current reality and will only improve. Unless all parties are liberated from artificially created restrictions on competition, wireless providers with huge stockpiles of spectrum will beat the NBN on price and the benefits of mobility. Consumers will not pay the higher prices required to meet an NBN business case that is flawed.
10. The Government needs to be conscious of this and not preside over the compounding of past poor decisions by entrenching them with additional mistakes such as these increasing layers of legislative controls.
11. It does not seem sensible to throw regulatory hurdles in the path of fixed line competitors to protect the NBN (such as those proposed in these bills), but leave open the path for wireless competitors to attack. The Government needs to re-think its policy strategies in relation to this industry.
12. The Australian economy cannot afford to continue to make these errors.
13. In relation to the specifics of the bills, TPG considers that the proposed 50 metre extension rule has difficulties. It will make some premises in a building serviceable by a competitor and others (perhaps those on higher floors) not serviceable. For greenfield sites, this is a significant problem. Adjustments should be made such that if any premises in a building can be supplied by a carrier using the 50 metre rule, all the premises in that building should be able to be supplied.
14. The tax should not apply to existing customers of a carrier who have been supplied services under existing law and should only be for new customers. Ultimately, the tax will need to be passed on to consumers so as to increase the effective tax that they are being asked to pay. Taxes should never operate with retrospectively.
15. It is also difficult to understand why the tax should be indexed. If the intended outcome to be achieved is to match the subsidy by NBN customers, then the tax should only increase if the subsidy notionally being paid by NBN customers increases (i.e., the NBN prices rise).

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[1] Comms Day 1 February 2017