

21 July 2016

Telecommunications Universal Service Obligation
Productivity Commission
GPO Box 1428,
Canberra City ACT 2601

BY EMAIL: www.pc.gov.au/inquiries/current/telecommunications

Executive Summary

USO is inefficient, opaque, unclear in who it is seeking to protect and imprecise in its intention.

Numerous policy and regulatory tools appear to be intended to achieve overlapping outcomes.

This history of piling subsidy on subsidy in response to services deemed inadequate in particular locations or for particular users suggests a broken approach.

A large reason for this is that there is no shared underlying policy reasoning between these different policy mechanisms, resulting in inefficient use of taxpayers' money.

The USO itself, several other initiatives, and the USO and these other initiatives in combination, create unintended consequences that act to harm competition in communications markets, to the especial disadvantage of many of the same consumers the USO is intended to protect.

A "clean sheet" approach is called for to bring the focus of intervention on to the appropriate disadvantaged users without compromising broader competition outcomes, and utilising to best effect the taxpayers' substantial investment in NBN.

Macquarie Telecom proposes a model that identifies disadvantaged consumers for whom access to the NBN via commercially available retail offers is not affordable. This could be determined through means such as welfare and/or healthcare card eligibility, for example.

The provision of a subsidised service to these individuals via NBN would be tendered out to commercial operators.

The service itself could be simply defined as the relevant entry-level NBN broadband service, with a voice service, and necessary customer premises equipment.

Given the NBN will provide universal access, the service itself and the underlying access costs would be transparent and the same to all competing providers. This would overcome the problems that beset past attempts at tendering elements of USO services to some locations. On those occasions, Telstra was the only provider with direct access the network required to deliver the USO.

Submission in response to the Telecommunications Universal Service Obligation Productivity Commission Issues Paper June 2016

The Australian Government has asked the Productivity Commission to undertake an inquiry into the future direction of a universal service obligation (USO) in the telecommunications market.

Background

Macquarie Telecom has a key interest in the USO. Macquarie Telecom is a niche player in the Australian telecommunications and data centre market. The anti-competitive impact of obligations such as the USO affect our business.

About Macquarie Telecom

Macquarie Telecom was founded in 1992 (ASX:MAQ) and is an Australian Managed Hosting, government and business telecommunications company. Macquarie Telecom does not offer services to residential consumers.

Working with and supporting some of Australia's best-known organisations, Macquarie Telecom is a full service hosting provider offering managed dedicated servers, managed colocation, and managed private and public clouds for mid-size businesses and corporate IT departments.

Combining business-grade full line (Voice, Data and Mobile) telecommunications with hosting services to offer truly integrated end-to-end communications solutions, Macquarie Telecom is best placed to help transition businesses to the new NBN.

Macquarie Telecom's offerings are underpinned by world-class customer care which is delivered by the MacquarieHUB. Our fully owned Australian based Intellicentre 2 is the most certified data centre in the country, offering our customers ISO27001 and PCI compliance.

Problems with the USO: Do we need a USO and at what cost?

The Commission's discussion paper highlights that there are persistent knowledge gaps that make an assessment of the USO a difficult task.

Some of these knowledge gaps are so fundamental to good policy design that it is an indictment that the policy has continued without a major review for so long.

For example;

- We don't know precisely who the USO is serving;
- We don't know with any confidence what it costs to deliver the USO; and
- We don't have a comprehensive cost-benefit analysis of the USO to allow us to assess the on-going reasonableness of it as a policy tool.

We do know, however, that the USO was framed in an era of technology that now appears to be ancient history, and the "entitlements" of users as described in the USO reflects this failure to keep up to date.

As a result, this expensive program has failed to respond to changing consumer expectations, resulting in a series of other policy interventions have been introduced to ensure disadvantaged consumers have access to various communications services.

The largest is obviously the NBN.

But there has been a decade of subsidy programs for mobile services, a broadband blackspots program, and a \$200+ million subsidy for competitive regional backhaul. Satellite solutions have also been proffered as an alternative.

These huge investments seemingly have no end, as each investment is followed by a call for a new round of public money to be provided to the same group of companies.

It is clear that the USO, and these other subsidies, have a distorting effect on competitive markets by conferring advantages on incumbent operators.

It is also apparent that the USO has no capacity to consider the downstream commercial advantages Telstra can avail itself of as the universal service provider.

For example, the USO subsidises Telstra's national payphone network, which has been regarded as uneconomic in certain locations.

However, Telstra now uses its payphone infrastructure as the basis for the most extensive Wi-Fi network in Australia. This is not only the payphone "boxes" themselves, on which it has attached WiFi transceivers, but also the copper and fibre network linking the payphone sites to its network.

This is clearly a massive benefit Telstra enjoys in an important emerging technology that no competitor will be able to replicate, and which Telstra bundles with its other retail products, yet the value of this revenue derived from a subsidised network is not discussed in the context of the appropriate level of Telstra's USO subsidy.

Nor is the cost to all consumers of the competitive distortions created.

Meanwhile, the programs to subsidise mobile networks – which have largely displaced public payphones – continue to roll over the top of the USO.

These programs also very often have no regard to the underlying policy to promote competition in communications services because they are applied as "band-aid" solutions to perceived market failure. As a result, programs such as the mobile blackspots program do not require recipients to provide any wholesale access or even roaming, locking consumers into one-provider solutions with no prospect of competitive entry.

These programs, too, have the effect of constraining competition by advantaging incumbent network owners, who can use their exclusive access to a subsidised network footprint to create a bundle of services that new entrants are unable to replicate.

This contrasts with the NBN policy approach, which was intended to identify and quarantine fixed line network elements with monopoly characteristics, and require they be operated on a non-discriminatory, wholesale only basis.

Similarly, the Regional Backhaul Blackspots Program required the operator to provide non-discriminatory wholesale access.

Toward a New Model

Macquarie Telecom believes the founding principle of consumer subsidy programs should be that competition is maximised, geographically and across consumer profiles, so that those areas of persistent market failure requiring intervention can be most precisely identified.

The means by which such market failure is addressed should then be designed to provide consumers and tax payers with the most competition-enhancing solution.

The NBN initiative, for the first time, puts in place the elements required for an elegant migration from the existing USO model to a more comprehensive and competitively neutral approach.

As the Discussion paper notes, NBN is in effect a universal access network provider, ready to be switched on as soon as the individual consumer identifies a preferred retailer.

The first problem the USO has historically addressed – the absence of a commercial case to physically connect an individual consumer – is therefore redundant.

Further, the network is independent of the retailer, so the underlying wholesale cost of providing a service is transparent and capped.

This leaves the question of the consumer's ability to pay for a service appropriate to their needs.

Any program to address this disadvantage should appropriately be integrated with the broader welfare system, and delivered through a mechanism that does not compromise the contestability of the broader retail market.

Macquarie proposes that users' eligibility for retail communications subsidy should be, in the first instance at least, determined by their eligibility for welfare programs or Healthcare cards, for example.

Once the eligible population has been defined, the right to provide a subsidised service to them should be put to market.

While the discussion paper notes past attempts at making the USO contestable have not been successful, these were conducted before the advent of the NBN created a level access playing field, universal coverage, and complete transparency of the cost of providing a service.

Retailers should respond positively to a tender process for a per-user subsidy to provide a defined basic broadband and voice service delivered over the NBN.

The NBN should be the required access network, however. In this way, the service elements of the new USO could be strictly defined, the taxpayers' already committed investment in universal access would be honoured and the potential for competitive markets to be distorted would be minimised.

Macquarie strongly submits mobile services should not form part of the USO.

There have been many hundreds of millions of dollars of subsidy provided to mobile network owners over the past 20 years. Adding mobile services to the USO would limit the respondents to a contestable USO to three network owners.

It would also provide them with subsidy on top of a subsidy, a model that can be seen to have been failure in the past 20 years.

It would also remove the opportunity for full transparency of underlying costs, one of the most important features of the proposed new approach.

Rather, Macquarie Telecom submits that all subsidies for extending mobile services should incorporate mechanisms to prevent the commercial benefits of public investment being fully captured by the recipient firm, to the disadvantage of regional consumers consistently denied competitive supply.

For example, all subsidies should include a requirement that wholesale services are provided using the new infrastructure, and made available to all service providers, not just the winning supplier.

The anticompetitive impacts of allowing exclusive access to services using subsidised infrastructure have knock on effects to otherwise competitive markets. Integrated mobile-fixed line providers can deny wholesale access to their full mobile networks, and by that means offered bundled deals to corporate and government customers that cannot be replicated by competitors without equivalent scale and scope.

That reinforces disadvantages experienced by users in more remote locations.

Again, this competitively harmful conduct is being facilitated by public subsidy.

Other Issues

The copper continuity agreement has no rational basis that Macquarie can identify. It should be phased out on location by location basis as NBN is activated. NBN networks are all voice capable. The standard telephone service definition is anachronistic, as is evident from consumers' conduct in moving increasingly to alternatives.

Payphones should no longer be subsidised, although the obligation on Telstra to retain them in regional locations where there is no choice of mobile network should remain for community safety reasons.

This would recognise that Telstra had monetised the payphone network through adding a new revenue stream (WiFi) and create an incentive for investment in modern, upgradable mobile communications networks.

Conclusion

Macquarie Telecom is happy to expand on any of the issues covered in this submission. Please contact me if you wish to do so.

Yours faithfully,

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