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**Wednesday 2 March 2016**

**TransTasman Business Circle luncheon**

***GIVING INNOVATION A CHANCE:  
COMPETITION IN AUSTRALIA'S COMMUNICATIONS INDUSTRY***

Good Afternoon and Welcome.

I put up this quote to frame what I want to talk about today.

The technology our industry delivers is the enabler of this disruption.

Optus is a huge investor in Australia's mobile and fixed internet networks: \$16 billion since 2001 and we've guided the market that we will spend almost \$2 billion this year alone.

What I am going to show you today is that:

- Australians don't need encouragement – we are already keen consumers of disruptive digital technologies
- But our national broadband infrastructure has not kept up with consumer needs and much remains to be done to improve competitive outcomes
- Competition in the fixed line sector appears to have stalled and may decline further given the dominance of the incumbent provider
- Left unchanged this will harm innovation and our global competitiveness

So today, as one of Australia's largest investors in communications infrastructure, Optus is calling for three major changes:

- Telstra's copper network is going to be required for most broadband connections for at least another decade. We cannot continue to allow Telstra to set and police most of the rules on how its competitors can access that network. We need new standards; enforced by an independent referee.
- If setting up these rules proves too hard, then we need to follow NZ, Singapore and the UK and implement deeper separation of Telstra's fixed network
- In addition to these changes, as the NBN rolls out in each neighbourhood, we are calling for all Australians to be released from contracts and allowed to pick any broadband provider they want.

**AUSTRALIANS ARE ALREADY CHANGING**

As Australians, we love new ideas – we are the planet’s early adopters!

We are already huge consumers of internet data.

This has grown roughly 50% year on year, every year in the past 5 years and is expected to continue to grow at double digits in the next 5 years.

We are switching rapidly from passive TV consumption to active control.

We are among the fastest nations to take up smartphones. In contrast, however, the increase in fixed broadband take up has been modest.

Australians are also savvy users of these new technologies: we move easily between Mobile and Fixed networks.

We estimate that WiFi currently accounts for over 40% of Mobile data consumption and for Tablets it is over 90%

In summary, the Prime Minister probably doesn’t need to worry about Australians’ willingness to embrace the digital world – we are already at the forefront. But he should worry that a leading 21<sup>st</sup> century economy will need access to both advanced competitive mobile **and** advanced competitive fixed broadband networks.

## **DESPITE THE NBN OUR FIXED INFRASTRUCTURE HAS NOT KEPT UP**

How is our infrastructure shaping up to these new challenges and opportunities?

Very often analysis of this focuses on the NBN network build.

As a nation we have committed at least \$46bn to construction of a national broadband network and by some estimates over \$90bn in compensation to Telstra as their customers shift to the NBN.

But let’s look at the facts:

Compared to other developed countries, Australia still lags in terms of broadband penetration.

This affects not just end user experience but also businesses productivity and other socio-economic outcomes such as employment growth.

Two main factors are responsible for this:

- Limited competition in fixed: Telstra was gifted most of the country’s fixed infrastructure. Despite rules to allow competitors to access this, on the ground the conditions are not sufficient for competitors to drive significant change in the market. This is one of the reasons why governments of both sides have invested in the NBN.
- Prices in Australia: in the absence of the conditions for rational investment in competition, prices are significantly higher than those observed in comparable overseas markets.

## **COMPETITION IN AUSTRALIAN BROADBAND HAS STALLED**

This leads to my third point: Australians may be embracing the new digital world and our Government may be spending large amounts on a new national network;

But is this enough?

Recent years have seen Telstra consolidate and strengthen its position in the market.

Telstra was gifted ownership of the primary national fixed network. Quite naturally they have leveraged this to entrench their market position.

A key measure of the health of competition used by the ACCC is market concentration.

Australia has one of the most concentrated communications markets in the developed World.

The following chart which shows the market share across voice, broadband, mobile and Pay TV for a group of Telstra's international peers demonstrates this point.

And the situation is even worse if we look at Telstra's share of industry profit.

As the following chart shows it is a very big slice of the pie – close to 90%.

When a single player dominates the market in this way then you can expect problems with competition.

This level of profit gives Telstra a vast advantage to respond to any threats from competition – it is well placed to shift profits from one segment to another to defend its patch.

Imagine the outcry if one of the Banks accounted for 90% of the industry profit pool.

### **OUR FUTURE COMPETITIVENESS IS AT RISK**

As the recent Harper report noted competition is vital to the well-being of our economy since it helps

*“to ensure that our economy is agile, flexible and robust to future challenges and opportunities”.*

The communications sector is one of the most important inputs to a 21<sup>st</sup> century digital economy.

As global barriers to trade are being dismantled by digital technology almost every Australian business – from real estate agents to manufacturers – must transform to a digital marketplace.

Lack of competition in fixed communications is holding our economy back.

Already Australians are paying a lot more for their fixed communications services than consumers in other countries.

Take the US as an example: Australia's prices for Broadband services are approximately 80% higher than in the US with less than half of data inclusions and longer contract terms.

## **THE NBN WILL WEAKEN COMPETITION FURTHER:**

I am sure some of you are thinking – thank goodness we have the NBN coming. That will fix everything!

Six years after its launch, NBN has been struggling to deliver its plan. The number of houses connected was only 17.5% of the original plan as at June 2015.

Some of the reasons are outside of NBN Co's control so the risk of further delay continues.

For example, a change of Government could drive another change in technology mix bringing further delays.

The NBN policy changes, although designed to deliver a significant lift to competition, are not playing out as they were intended.

Firstly, look at the financial dividend that it will deliver to Telstra.

The NBN was never going to be viable if it had to compete head-on with Telstra. So a deal was struck with Telstra to migrate its customers to the NBN.

By 2018 the annual NBN payments to Telstra will exceed \$2 Billion and will peak at over \$4 billion in 2019;

- This is significantly more than the profits of all Telstra's competitors combined.

But there is another important concern for broadband competition as a result of the revised NBN rollout.

As the NBN takes longer to roll out, competitors will be relying on access to Telstra's existing copper network to deliver broadband for many years to come.

And the new NBN multi-technology mix means that Telstra will play a more central part in the roll-out of the NBN and customer migration.

But here's the problem. Telstra has been allowed to set and police many of the rules for competitors to access its copper network in the transition to the NBN and beyond.

Let me show you an example of the problem this can create:

Telstra is required to report its performance on fixing faults on copper services for its wholesale customers – companies like Optus who are its retail competitors.

This is important as it's meant to show that Telstra is not unfairly gaining an advantage by delaying faults fixes on lines being rented by its competitors.

Telstra's reported performance shows that it meets, or even exceeds, its target quarter after quarter once allowance is made for various exceptional circumstances (such as bad weather events).

But the reality faced by wholesale customers is quite different. On the chart we have overlaid actual performance. Performance targets are routinely missed and by a long way.

Telstra is using its ownership of the network to frustrate competition – but by their own reports issued to the regulators, everything is ok.

This will only get worse; as the NBN rolls-out Telstra is relaxing its existing wholesale service assurance arrangements.

So today Optus is calling for the rules to be changed: we need a new set of wholesale service standards that are relevant; and, are set by an independent referee with real enforcement powers.

We call on the Government to establish an inquiry into how to maximise competition in fixed broadband including:

- the establishment of new wholesale standards that meet consumer's needs and;
- an independent referee with the powers to enforce these standards.

Let's stop relying on the incumbent, who makes 90% of industry profit, to measure itself in this critical area of the new Australian economy.

### **Gaming the System**

If we look at the last ten years of Government, trying to bring reform to Australia's fixed telecommunications network has filled pages of newspapers and hours of TV with intrigue. It has been a high stakes poker game as governments of both sides of politics have battled the delaying tactics of one of Australia's largest corporations.

Many of you in the room might be delighted at the call I just made – which will kick off another few years of corporate soap opera as Telstra again battles the Government on competition.

We don't have years – the global economy is changing too fast!

The evidence of the last two governments has shown that Telstra only negotiates when it has a real credible threat.

If Telstra won't play ball on our first request for an independent referee, separation is the best alternative

So Optus is making a second call today: Let's also ask this inquiry to look at the benefits for Australia if we formally separate the copper fixed network from Telstra. That is: let's follow the steps already taken by the Governments of NZ, Singapore and proposed as recently as last week by the UK regulator.

Since structural separation of Telecom NZ was implemented in 2011, the New Zealand telecommunications market has seen a real lift in competition driving new investment; lower prices; new entrants and greater levels of innovation.

Australian tax payers are already paying compensation to Telstra for this separation. Why should we wait another 5 years or more to benefit allowing Telstra to further entrench its dominance?

### **Liberating Customers**

And now I want to make a third call – for an immediate change that will directly benefit customers.

The change in technology for the NBN has an unintended effect on competition in areas where Telstra copper will still be used for the NBN.

Under the original NBN technology, every home would have had its copper lines disconnected and a new fibre line installed.

This gave the customer a clearly defined reason to reconsider their broadband supplier.

In its negotiations, the Government agreed to compensate Telstra for the significant loss of customers it would likely face from the disruptive nature of this migration process.

However the customer's awareness of this opportunity to choose a new broadband provider is now undermined by changes in technology.

For the majority of homes that will now be connected by FTTN, this will facilitate a more seamless transition with less direct involvement of the customer.

An existing service can be transferred to the NBN without a customer knowing that such a transfer has occurred.

Customers can be pre-conditioned for the switchover by the mail-out of new modem which they can plug-in to their existing socket and this will operate with the new NBN service when remote cutover occurs.

Not surprisingly, current providers in these areas are trying to lock-down customers into contracts so when the NBN rolls around many customers will have no other choice but to go with their existing provider.

No guesses for which provider has the most taxpayer dollars to lock customers into contracts. And ironically it's money that was meant to be compensation for losing these same customers!

We think that customers deserve the right to fully participate in the NBN process – and this can be done by giving them back an unrestricted choice of provider.

Optus proposes that moving forward customers be released from any existing broadband contracts as soon as they are connected to the NBN.

The way the regulator can enforce this is the following:

- When a neighborhood is declared RFS then for that 18 month period customers should be released from any existing broadband or fixed voice contract.

- This will give customers the opportunity to select their NBN provider of choice without the risk of a contract penalties or break-fees applying.
- Any NBN service should be backed up by a signed customer order and a new contract. That is existing contracts cannot simply be rolled-over.
- At RFS, NBN Co should write to all customers in an area identifying that customers can choose a broadband provider from a list of RSPs and that all existing contract terms are waived.

Optus is willing to commit to these principles provided they apply to the whole industry.

Telstra should do the right thing by Australian taxpayers and sign-up as well; after all, it has been compensated for any lost market share because of the NBN transition.

## **SUMMARY**

In summary, what I have demonstrated today is that:

- Australians have a huge appetite for the digital world
- But our national broadband infrastructure has not kept up with consumer needs and international standards
- The momentum for future competition in communications has stalled and is arguably going backwards
- That left unchanged this will harm innovation and our global competitiveness

So today, Optus, one of the largest investors in Australia's internet infrastructure is calling for major changes:

- The establishment of an independent inquiry on how to optimise competition in fixed broadband;
- This should include the establishment new wholesale service standards overseen by an independent referee to monitor and enforce compliance;
- It should also evaluate the potential separation of Telstra's fixed network; and
- Consumers should be given greater choice by enabling them to switch from their current Broadband contracts as the NBN rolls out in each neighbourhood.