



Australian Government

**Department of Broadband,
Communications and the Digital Economy**

Statement by the Minister for Broadband, Communications and the Digital Economy, Senator the Hon Stephen Conroy

Fibre in New Developments

9 December 2010

When the Government announced its National Broadband Network (NBN) policy in April 2009, it recognised that it was essential to ensure new developments across Australia were given ready access to fibre technology as they were being built. While the NBN is being constructed, an estimated 1.9 million new premises will be built. Connecting these premises to fibre will provide occupants with ready access to next generation broadband and reduce rollout costs by avoiding costly retrofitting.

Following extensive consultation with stakeholders and consideration of the NBN Implementation Study, the Government announced on 20 June 2010 that from 1 January 2011:

- NBN Co Limited would be the wholesale provider of last resort in new developments¹ within or adjacent to its long term fibre footprint and meet the cost of doing so;
- developers – and on their properties, property owners – would be responsible for trenching and ducting;
- Telstra would not have infrastructure responsibilities but would be retail provider of last resort; and
- developers could use any fibre provider they want, providing they met NBN specifications and open access requirements.

These are very significant changes to the way telecommunications infrastructure and services are provided in new developments. But as the Gillard Government has demonstrated it is prepared to tackle the challenges in telecommunications to deliver better long term outcomes for Australia.

¹ For the sake of clarity, references in this statement to new developments should be understood to refer to all types of developments and constructions, regardless of the number of lots, premises or units involved, whether they are broadacre greenfield or brownfield infill, and regardless of whether they are residential, commercial, industrial, government or of some other type. References to lots, units and premises should generally be taken to have the same meaning and be interchangeable.

Since 20 June, the Government has been working with NBN Co and other stakeholders to finalise the implementation arrangements by which the 20 June policy will be given effect.

Given the magnitude of the task facing NBN Co, the Government has now decided to phase in the introduction of its provider of last resort obligations. The arrangements being announced today are intended to provide stakeholders with the much needed certainty for all developments.

I emphasise that in all instances this policy relates to who is responsible for the provision of infrastructure and services in new developments as a provider of last resort. Nothing prevents a developer from requesting any provider (whether it be NBN Co, Telstra or some other provider) to provide infrastructure in, or to service their estate. Any such provider is free to comply with such a request, but is not required to do so, other than NBN Co and Telstra as providers of last resort as described below.

The Government will be making regulatory changes to give effect to the arrangements described below, including in relation to clarifying responsibilities under the existing universal service regime. The Australian Government will also continue to work with State and Territory Governments to ensure a nationally consistent approach is adopted in all planning regimes.

The role of NBN Co in new developments

From 1 January 2011, NBN Co will be responsible for the installation of fibre at the development stage for all premises in NBN Co's fibre footprint in:

- all broadacre developments²,
- all infill developments where it has fibre that is ready for service and capable of connection, and
- new approved infill developments of 100 or more premises³.

While NBN Co's responsibilities will commence from 1 January 2011, it will be in relation to developments which receive Stage 5 development approval (relating to civil works) after that date and for which three months' notice has been given (by the developer to NBN Co). That is, the earliest practical date of effect is 1 April 2011.

As per the Government's 20 June 2010 policy announcement, NBN Co will be responsible for the installation of fibre infrastructure in the development including backhaul to a point of interconnect. (Other costs to be met by developers are discussed below.)

NBN Co may use whatever operational arrangements it chooses to service new developments, including sub-contracting and build-operate-transfer (BOT) arrangements. NBN Co will use such arrangements to make infrastructure available in

² All new developments will be assumed to be in NBN Co's long term fibre footprint. NBN Co will promptly advise the Government, developers and Telstra (as USO provider outside the footprint) of new developments that are outside of the long term fibre footprint.

³ Developments of 100 or more premises are those with 100 or more premises over a three year period.

a timeframe which will enable occupiers of lots to access fibre-based voice telephony and other services.

NBN Co will establish a panel of appropriately qualified and experienced providers who can bid to install fibre on its behalf.

The details of how the BOT arrangements will operate are a matter for NBN Co, and will be set out in tender process documents.

Role of Telstra

For infill developments of less than 100 premises, Telstra will continue to be responsible for delivering infrastructure and services, pending NBN Co being ready to provide a fibre service in that area that is capable of connection to the premises.

Telstra has agreed that it will generally provide copper infrastructure. However Telstra can choose to provide fibre and in some limited circumstances, for example, because of the short timeframe between construction and the rollout of fibre, Telstra may provide high quality wireless services as an interim solution. Telstra will work to determine which interim solutions will be appropriate in specific circumstances. It will take into account considerations including the timeframe for which the interim solution is required, the infrastructure solution that delivers the best service quality, the customer's location and requirements for voice or broadband.

Like other fibre providers, Telstra will also be able to enter into commercial arrangements with NBN Co relating to fibre solutions.

Consistent with the 20 June 2010 announcement, Telstra will be required to provide standard telephone services to end users in all new developments in which retail services are not offered by another service provider (retail provider of last resort).

Pre-existing service applications

Some developers have already requested infrastructure for developments that will not be completed before 1 January 2011. While the arrangements outlined in this statement do not in any way override existing contractual arrangements developers may have in place, four scenarios and handling arrangements are set out below.

First, for lots where Telstra has already installed fibre-ready pit and pipe infrastructure, but has not provided a fixed line, NBN Co will have access to this infrastructure on commercial terms and NBN Co will subcontract providers to deliver fibre to these premises on commercial terms to be agreed.

Second, in developments that are design-ready but do not yet have pit and pipe installed and require services from 1 January to 30 June 2011, NBN Co will engage subcontractors to deliver fibre on a BOT basis on commercial terms to be agreed. The Government recognises that the most efficient and timely solution may be for Telstra to proceed to build the infrastructure under an arrangement with NBN Co. This is subject to any existing legal arrangements between a provider and the developer.

Third, in developments that are design-ready but do not yet have pit and pipe installed and require services after 1 July 2011, developers can redirect requests to NBN Co for fibre service delivery under a delivery method to be determined by NBN Co. Again the Government recognises that it may be more efficient to use the design work which Telstra has undertaken and for Telstra to proceed to build the infrastructure under arrangements with NBN Co. This is subject to any existing legal arrangements between an existing provider and the developer.

Finally, some developments have effectively been land banked, that is, they have been approved for development some time ago, but have not proceeded to completion. These developers will need to reodge their requests with NBN Co and they will be processed according to the rules described above.

Expectations on developers

From 1 January 2011, in all types of new developments, developers will be expected to ensure that pit and pipe – including trenching, design and third party certification for development approval purposes – are installed and are fibre-ready, to NBN Co’s specifications. Developers will meet the costs of pit and pipe.

In the absence of the developer meeting the cost of providing such pit and pipe, NBN Co is not required to provide services to these developments. (Any other provider whom a developer approaches to provide infrastructure will need to make similar decisions.)

The Government recognises that this requires clarity on the nature of the pit and pipe that is appropriate. NBN Co will provide specifications for use where a developer wishes to use NBN Co. The specifications will also be provided to the Communications Alliance with a view to having these specifications endorsed for general use by industry as soon as possible. Any pit and pipe that has been, or is, installed, in accordance with NBN Co’s guidelines, will be taken to be fibre-ready. The onus will be on the developer to demonstrate they have used fibre-ready specifications.

NBN Co will require the transfer of the ownership of this infrastructure to it as a condition of serving a development. This is a matter for commercial negotiations between NBN Co and the developers.

Consistent with past discussions with the development industry the Government is proposing legislation to have developers install fibre-ready pit and pipe and to provide access to non-carrier pit and pipe. This legislation would be introduced into the Parliament early in 2011.

Role of competing fibre providers

It has been a consistent feature of the Government’s policy in new developments that there should be room for competing providers. This continues to be the case.

Developers will be able to source fibre from competing fibre providers if they wish. Providers can compete to provide infrastructure in new developments, for example, by offering more tailored solutions to developers or more expeditious delivery.

Where the installed infrastructure meets NBN Co specifications, NBN Co may seek to acquire the infrastructure, but this is a commercial decision for NBN Co.

Those providers should, however, build to the specifications for the NBN and offer a Layer 2 service on an open access basis. Provisions in the NBN Access Bill recently introduced into Parliament will require this. This is intended to ensure consumers in such development have access to the same service outcomes as are available in new developments serviced by NBN Co. Providers who fail to do this will otherwise risk being overbuilt when NBN Co rolls out the network in their area.

There is strong stakeholder support for NBN Co operating as the wholesale provider of last resort in new developments and meeting the cost of providing fibre. The Government's policy reflects this. This approach will also support a consistent national approach into the future. If alternative providers want to compete with NBN Co they are welcome to do so, but it is on the understanding that they have the resources and ability to do so.

It is clear that NBN Co has a substantial task ahead of it in new developments and the establishment by NBN Co of a panel of sub-contractors provides considerable opportunities for those with capability in this area.

Next steps

The new arrangements for the provision of telecommunications infrastructure in new developments are a significant change. They are an integral part of our plan to bring Australia's communications into the 21st century. But a change of this scale is a huge undertaking.

The arrangements announced today will provide a smooth passage from the old to the new, but they will involve some transitional and interim measures. Not everything can be in place from the first day. Stakeholders will need to exercise some patience and flexibility.

Both NBN Co and Telstra will be providing more detailed information about their respective roles, and I hope other providers of infrastructure will be looking for opportunities in the new environment.

The Government, NBN Co and Telstra will work closely with stakeholders to communicate and implement the changes. A cooperative approach will be most productive. This includes State, Territory and local government as well as the development, building and telecommunications industries.

Further information will also be available from the Department of Broadband, Communications and the Digital Economy.