

## EU Broadband Policy - A Different Path

The European Commission has set a clear path for encouraging investment in broadband networks<sup>1</sup>. It is infinitely better than current Australian broadband policy because it encourages private investment and infrastructure competition.

In the (northern) autumn, detailed guidelines to be implemented by national regulators will be produced. They will apply at least until 2020 and will focus on three areas:

First, a recommendation on non-discrimination based on equivalence of inputs. There will be a *"combination of measures (that) will give effective alternative guarantees without recourse to functional separation, which in our view remains a last-resort remedy"*. Australia has gone beyond this to structural separation with enormous distortions to previous competition policy.

Second, there is a separate recommendation on cost methodology for regulated wholesale prices for network access. It says in part that copper access costs should be based on a fibre network: *"after all, no operator would today build a copper network"*. This leads to asset valuation at DORC (depreciated optimised replacement cost). This was the approach in Australia but the ACCC recently shifted to DAC (depreciated actual/historic cost) which will look only at the current copper network. The incumbent (Telstra) alleges that it was short-changed \$18b in the process of changing asset valuations (submission to ACCC, September 2010).

A key issue in the EC thinking is the indirect effect of copper wholesale pricing on investment in next generation networks (NGAs). But, *"after examining all the evidence, and given the significant competitive relationship between copper and NGA networks, we are not convinced that a phased decrease in copper prices would spur NGA investment. Indeed, we now see fibre investment progressing relatively well in some Member States where copper prices are around or above the EU average (€9 per month)"*.

Third, there is a focus on encouraging forbearance. *"When the right conditions are imposed by regulators (equivalence of input obligation, replicability test), and where there is a significant competitive constraint (from operators with cost-oriented access to the copper network in accordance with Commission guidance; or from other infrastructure-based competitors such as cable or LTE), I propose that NRAs need not apply cost orientation directly to NGA wholesale access products"*.

In contrast, there will be no competitive constraints for Australia's NBN because copper and cable networks are prevented from competing. Our guardian of competition policy, the ACCC, has been placed in an invidious position by policy-makers. After promoting infrastructure competition it now has to support a government monopoly.

The EC approach is as much of an experiment as the Australian policy. But it is better planned and more likely to lead to satisfactory outcomes in terms of connectivity, investment competition and pricing.

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<sup>1</sup>Enhancing the broadband investment environment – policy statement by Vice President Kroes, 12 July, 2012 at <http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/12/554&format=HTML&aged=0&language=EN&guiLanguage=en>