Barr, Trevor. Open tender, closed shop.

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Communications Minister Stephen Conroy has announced that the Rudd government will soon call tenders for a new national broadband network offering substantial government capital investment. Public policy has a great track record in building valuable telecommunications infrastructure. One lesson from the past 150 years is the constructive role played by the public sector by providing the vision and seeding capital for the creation of three major communications platforms: Australia’s overland telegraph in the 1870s, (where the South Australian government invested 60% of one of its annual budgets in the project), communications satellites funded by the National Aeronautics and Space Administration (NASA) from the 1950s, and the early Internet, funded by the United States government from the 1960s to the 1990s. Together with the subsequent spin offs to the private sector – from Ted Turner and Rupert Murdoch’s satellite networks, through to the miracle of Google today - there can be little doubt about the amazingly successful ‘cost benefit analysis’ on behalf of government in all three cases.

Times have changed and new policy models have emerged. Telecommunications public policy decisions during the past decade have locked us into having few choices for broadband. The sad irony to date is that the introduction of the open competition model in July 1997, its associated regulatory framework, and the full privatization of Telstra, have actually made us less efficient in investment and impeded the development of the broadband networks we need.

We now have two generic, but seemingly incompatible, models for broadband roll out. First, under Sol Trujillo’s transformation strategy Telstra proposed a $4. 5 billion fibre –to–the- node network (FttN) with user speeds of 24 mbps, upgradeable to 100mbps, deployed to 4 million urban homes within 40 months. However Telstra put
these plans on hold in August 2006 when Telstra’s spokesman Phil Burgess alleged that ‘regulations require Telstra shareholders to sell their assets to Optus and other competitors below cost.’ Despite this hiatus, FttN remains an attractive commercial option for broadband investment and Telstra management says that if the conditions are right it could to begin to build its FttN - starting next Monday!

Second, there are several versions of an Open Access Model where a new commercial network consortium would build and operate new broadband infrastructure. The Labor Party’s *New Directions for Communications* of March 2007 proposed ‘regulatory reforms to facilitate the rollout of pro-competitive open access network providing equivalence of access charges, and scope to facilitate product offerings’. One industry group is about to put a submission to the Minister for an ambitious open access model proposing a stepping stone approach from FttN to the Rolls Royce of fast broadband, fibre direct to both homes and businesses, Fibre to the Premises (FttP).

Open Access may be the best option in terms of competition policy but it has many hurdles. There are huge logistical problems in rolling out new competitive networks in today’s environment. Try this. Go to the 39th floor of a high rise building in central Melbourne and scan the intricate landscape of roads, freeways, multi-story buildings, bridges, railways, parks and gardens. Do we have to we to overbuild the existing telecommunications infrastructure because we are unable to get competition policy to work?

The brutally commercial, fully privatized Telstra is most unlikely to join or co-operate with any Open Network plan. It rejected calls from the Optus-led ‘gang of nine’ to join a new collaborative venture. Instead Telstra is currently in the High Court challenging ‘acquisition of property’ regulation which allows its competitors to connect their equipment to the Telstra network. Also government would be unlikely to take the political risks associated with Open Network proponents who call for operational separation of Telstra’s networks from services. A Rudd government would surely face predictable anger of perceived loss of shareholder value from 1.4 million investors asking why this was not raised during the T3 sale or the recent election campaign.
But not all is lost. The Rudd government has drawn upon best practice lessons of telecommunications infrastructure history and offered investment of $4.7 billion of public funds which makes good long term sense for the nation. Most of this capital came from the telecommunications industry as a result of the final sale of the rest of Telstra via the Future Fund. We must find the best way to re-invest in this social and economic winner. All of our major trading partners are making huge capital investments in new broadband networks, and though it’s conceivable they could be all be wrong, this is very unlikely.

So how might we go forward today? One starting point is to resolve the competition bottlenecks around proposed access charges for new broadband competitors to Telstra’s proposed FttN. Telstra has argued that the ACCC proposed access charges that are only in the interests of its competitors. But Telstra’s prospective calculation of ‘acceptable’ access charges are closely related to its costs of capital raising, and the new government is willing to put $4.7 billion on the table. Why not then move towards a new negotiated scale of access charges according to how much capital can be made available to Telstra from the Commonwealth for a new fibre based broadband network? So, Sol and Phil, it’s over to you to give us some tables – what do you offer in return at $1b, $2b, $3 up to the budgeted $4.7 billion? Surely a useful overall fractions of the total capital contribution to the project. And then take a mutual agreement to the ACCC. And since Telstra has declared that it will not form a broadband joint partnership with the new government, it surely will have to offer its still largest shareholder, the Commonwealth government, some kind of trade off for cheap capital, possibly as additional Telstra shares for the Future Fund.

My money (as a non shareholder) is on Telstra to win the big broadband urban tender.

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