

19 January 2006

Secretary
Department of Communications,
Information Technology and the Arts
GPO Box 2154
Canberra ACT 2601

Dear Madam

SETEL Submission on *Broadband Connect and Clever Networks Programs: Supporting Investment in Sustainable Infrastructure: Discussion Paper*

The attached submission responds to the Minister's public invitation for comments on the Department's *Discussion Paper*.

The Small Enterprise Telecommunications Centre ([SETEL](http://www.setel.com.au)) is an independent national consumer organisation representing and advancing the interests of Australian small business telecommunications and electronic commerce consumers. SETEL's members are mainly industry, trade, commerce and professional associations servicing the small business sector. SETEL's membership includes 50 associations, which collectively represent over 600,000 Australian small businesses.

SETEL is pleased that the Federal Government, through *Connect Australia: A Plan to Future-proof Telecommunications*, has taken the initiative to foster the development of competition in the pursuit of broader supply of alternative high-speed data and modern voice services to small businesses and other consumers in regional, rural and remote areas in Australia.

Australia's 1.2 million small businesses¹ are major consumers of broadband services. Many of them in regional, rural and remote Australia stand to benefit significantly from *Connect Australia* programs. It is noted that the *Broadband Connect and Clever Networks* programs, together represent \$1 billion of the \$1.1 billion allocated to the *Connect Australia* package.

SETEL wishes to discuss in the near future, with the officers of your Department, its recommendations in this submission and the development of Broadband Connect and Clever Networks programs. I may be contacted on 02 6251 7823.

Yours sincerely

Ewan D Brown
Executive Director



SETEL Submission on *Broadband Connect and Clever Networks Programs: Supporting Investment in Sustainable Infrastructure: Discussion Paper*

This submission responds to the Minister's public invitation for comments on the Department's Discussion Paper.

Introductory comments

In this submission SETEL responds to a number of issues relevant to our role of representing the interests of small, micro and home businesses as consumers of telecommunications and Internet-based services. Accordingly, our perspective addresses the capacity of those businesses to derive efficiencies of operation through more effective use of communications services. This includes minimising red tape of any type.

Connect Australia: A Plan to Future-proof Telecommunications

SETEL is pleased that the Federal Government saw fit to foster the development of competition in the pursuit of broader supply of alternative high-speed data and modern voice services. On a prima facie basis, the Plan matches the policies of and representations made by SETEL in relation to the communications needs of Australian small business. It shows significant promise, if it can stimulate competitive supply of modern voice and data services, at affordable levels, throughout the country/nation.

SETEL *recommends* that Connect Australia should extend, to a greater degree than Metropolitan Broadband Connect, to small business and other consumers in suburban, outer metropolitan and metropolitan fringe areas and not be restricted to those consumers in regional and beyond areas.

Broadband Connect

Broadband Connect is intended to support the rollout of a range of new suitable infrastructure capable of delivering broadband services to a much larger number of users in regional Australia. SETEL continues to advocate for subsidies in this area as a means of stimulating competition and expanding opportunities for supply of broadband services in marginal or non-commercial areas in all parts of Australia.

Government Services

SETEL hopes that the Clever Networks program will encourage other governments (State and local) to become involved in the support of their infrastructure, enabling the provision of their growing range of services through electronic means, to be made available to the general community. It can also foster the involvement of private entities in partnerships for the



provision of infrastructure. SETEL believes that specialist infrastructure providers can work effectively with governments to provide long-life infrastructure (eg. cabling and ducting) to regions and communities, thus facilitating faster market entry for service providers in a competitive environment. SETEL has also advocated for government infrastructure to be made available to benefit the community (eg. Local residential and business users) and wants to ensure that the stated intention of Clever Networks program to mesh with Broadband Connect program to expand the impact of broadband rollout is realised.

Regulation

SETEL policies advocate competition reform through greater powers being given to the ACCC to enforce operational separation within Telstra and to restrict unconscionable conduct in the marketplace. If new entrants are to be able to gain a foothold in the market they need protection from predatory behaviour by dominant incumbents. Small business wants to see the opportunities for choice in services made available rather than being 'forced' to accept a single avenue of supply.

The additional consumer measures outlined in the Connect Australia Plan are welcome. Limitations to situations in which companies can claim exemptions for mass service disruptions will lessen the frustrations of businesses affected by network or service outages.

Consumer Awareness

SETEL has long held the view that consumers are not provided with sufficient information by suppliers about communications products and services to make an informed choice. From a highly protected market environment (involving a single national telecommunications company) prior to the introduction of competition, consumers have been given little opportunity to kept up to date with developments in the communications sector. Suppliers tend to market products and services in technical performance terms rather than benefits to the user.

The Besley Telecommunications Service Inquiry report recommended the need for more consumer friendly information and SETEL was pleased to see its claims for consumer information resources to be accepted through production of valuable toolkits by the Australian Communications Authority (ACA). However the level of awareness by consumers of telecommunications services and of their rights remains a matter of concern. The small business sector is facing an increasingly complex communications environment when seeking to respond to expectations to make much greater use of electronic services for business operations. So any assistance that raises awareness and demystifies telecommunications is welcome.



Maintaining Momentum is Important

A number of former subsidy programs in the telecommunications environment have provided only partial solutions. This new Plan has the promise of delivering widespread improvement and addressing a large number of concerns and providing solutions. It thrusts the onus of developing competition onto the marketplace (many would say is the correct environment) whilst offering strengthened Trade Practices measures. The desired, and expected, end result should be the delivery of a vastly improved range of communications services throughout the nation benefiting all small business and other users and stimulation of the development of applications that will appeal to small businesses and enable them to adopt and integrate electronic commerce into their operations. The communications industry will benefit from considerably expanded expenditure by users.

SETEL foresees some problems with relying solely on the commercial (telecommunications industry) environment to deliver services and outlines its concerns in this paper. As a matter of clarification SETEL believes that the 'commercial environment' should include infrastructure developers, equipment suppliers and the three tiers of government in order to maximise benefits and outcomes from these subsidy programs.

Comments

The following comments are consistent with SETEL's policies for the development of telecommunications services in Australia, from the perspective of small, micro and home business users.

Extracts from SETEL Policies – Tier 1

All Australian small and home business telecommunications users should have access to competitively priced, innovative, quality services equivalent to, as far as possible, world's best practice.

- 1.1 **Competition:** SETEL favours strong competition between telecommunications carriers and service providers. Regulation, policies and funding programs should be designed to foster innovation and the development of competition in a range of services throughout Australia with the aim of delivering pro-competitive outcomes for all end users.
- 1.2 **Innovation:** SETEL encourages the development and deployment of new technology and services as a way of fostering competition and encouraging adoption of e-commerce and new applications e.g. IP and wireless-based services.
- 1.3 **Funding the USO:** SETEL believes that the Universal Service Obligation (USO) should be funded by the three tiers of Government to conform to social policy and regional development initiatives. (Alternatively USO contributions should be directed to an industry infrastructure fund to enhance provision of competitive infrastructure and services in all areas.)



- 1.4 **Access:** SETEL believes that any-to-any connectivity is critical to effective competition and to end-users. Access to competitors' networks should be provided on cost-based and non-discriminatory price and non-price, terms and conditions.
- 1.5 **Anti-competitive behaviour:** SETEL believes that market power should not be allowed to stifle competition. Regulatory authorities should try to prevent abuses of market power by using information-gathering and reporting powers to keep markets informed. Regulatory authorities should have the powers and resources to respond quickly and effectively to instances of abuse of market power.
- 1.6 **Broadband connectivity:** SETEL believes that all Australian small and home business users should have DSL-equivalent access at speeds of 256 Kbps and broadband access at speeds of 2Mbps or more. To maintain competitiveness, Australian users should have broadband availability, speed, data download and prices at world's best practice. Government policy and funding programs should foster innovation and deliver pro-competitive outcomes for end-users.
- 1.7 **Regional Communications:** SETEL believes that users of communications services in non-metropolitan, regional, rural and remote areas of Australia should have access to the same range of services, at the same prices and levels of service as metropolitan users.

SETEL notes the statement that Broadband Connect is likely to be an extension of the successful HiBIS program, albeit up to eight times larger. SETEL recognizes the need to continue this form of program, but believes that the new program, with a significant increase in funding support available, needs to contain a greater focus on future network and infrastructure developments and to give greater consideration to longer-term solutions aimed at providing much higher speed data services.

A simple extension of the HiBIS program may be sufficient to meet the base level expectations of many aspiring 'broadband' users for a low level broadband service. Provision needs to be made for higher speed broadband services in the future where low speed broadband services are not upgradeable.

SETEL perceives the requirement for commercial sustainability, in respect of funded services, to be an inhibiting factor given the experience with a number of previous funding projects and the activities of the dominant carrier in the marketplace. We believe that there is sufficient awareness of the benefits of basic broadband in the community to now provide some support for the "build it and they will come" concept but we realize that many aspiring users still need to experience the benefits of data speeds faster than dial-up services before significant consumer demand evolves.



For many small, micro and home business businesses no solid value proposition yet exists for justifying the commitment of extensive time and expenditure on the installation of broadband services for e-commerce purposes unless the cost and ease of access/usage is similar to that experienced in a residential/home environment.

Need for Expanded Promotion

Reliance seems to be placed on marketplace mechanisms to generate demand thus stimulating intending suppliers to seek subsidies in order to be able to meet that demand. Experience from the HiBIS program suggests that more promotion by parties other than intending suppliers may enhance the uptake of faster data services.

This promotion needs to be conducted in conjunction with appropriate supplier activity to ensure that services can be connected within the timeframe expectations of a new user. Therefore a co-ordination program is recommended.

National Broadband Co-ordination Panel

SETEL recommends:

- The establishment of a National Broadband Co-ordination Panel under the auspices of the Minister:
 - with representation from industry, community and government sectors;
 - to develop a national broadband plan, that accords with the strategy adopted by the National Broadband Strategy Implementation Group (NBSIG);
 - to advise and monitor the implementation and development of Connect Australia programs;
 - coordinate existing programs and activities, such as the Demand Aggregation Broker program; and
 - co-ordinate the conduct research including geographic analysis of existing infrastructure, identification of areas unserved or underserved by broadband infrastructure, and propose funding priorities.
- The establishment of community and industry committees (Regional Community Broadband Committees) including the following functions:
 - to leverage the resources available in regional communities;
 - to assist in promotion uptake of broadband services;
 - to assist with demand aggregation activities; and
 - to foster infrastructure development.



- The Department work with industry associations, including the Small Business Coalition and its Communications Advisory Group (convened by the Australian Chamber of Commerce and Industry) to raise awareness of the Connect Australia programs and to advise on the dissemination information through association networks.

SETEL notes that the ATUG Broadband Awareness Program in regional areas - SETEL was a major supporter - set the scene for awareness of broadband and follow-up activities are necessary to create the levels of actual demand essential for the commercial supply of services.

Community and industry committees are considered essential for the promotion, fostering and encouragement of take-up of broadband services, particularly by 'intending' users. They are necessary for addressing problems such as lack of network coverage (eg distance from local exchange, topography, network impediments such RIMS and Pair Gains) and for concentrating representation activity in order to establish a case for supply of services.

Regional Community Broadband Committees

SETEL sees a role for regional communities to become more involved in the representation and organisation for the provision of broadband services in their respective areas. SETEL is aware of the Broadband Broker Program and the broadband awareness program conducted by ATUG but considers that there is a need for local 'ownership' of responsibility for facilitating actual, as opposed to potential, supply of broadband services to regional areas.

In some cases this may require lobbying/representation activity rather than simply waiting for the market to provide supply. Current incentive/assistance programs operate at a high level or rely upon the individual aspiring user to activate supply (Telstra's ADSL Register or HiBIS program).

In SETEL's view the Government could and should enhance the impact of its Connect Australia Plan by involving regional communities and industry in infrastructure development through Regional Community Broadband Committees.

SETEL's current policies call for the establishment of a number of Registers and Mapping facilities to clearly demonstrate the deficiencies in supply of broadband to specific areas in outer metropolitan and regional Australia. These Committees could take into consideration the following SETEL policies in determining what action may be necessary to encourage the supply of broadband services in their respective areas/regions. It would be beneficial for these Committees to be sufficiently empowered to make decisions and/or recommendations about investing in their regional infrastructure.



SETEL also proposes that the Government use existing networks of industry associations to promote greater awareness of Connect Australia programs. Associations are well placed to disseminate information and assist with the implementation of these programs.

As the Australian Chamber of Commerce and Industry has noted², the Federal Government got it right with the GST Start Up office. It decided to fund the industry associations to run the education and awareness seminars. It thousands of businesses to seminars because their industry association couched the information in terms they could understand.

Accordingly, SETEL *recommends* that the Department work with industry associations, including the Small Business Coalition and its Communications Advisory Group (convened by ACCI) to raise awareness of the Connect Australia programs and to advise on the dissemination information through association networks. SETEL believes that the involvement of industry and community representatives in planning and co-ordination activities will significantly contribute to the gaining of momentum in the provision of modern communications facilities as part of the innovative Connect Australia Plan.

SETEL Policies

TIER 2. Programs

(To be implemented to facilitate access by small and home businesses to faster data services.)

2.1 SETEL wishes to see tangible Government policy and program advancements to ensure that effective competitive supply of broadband (wireline, ADSL and cable) services is fostered throughout Australia.

Facilities-based competition is preferable. Technologies, such as wireless, have the potential to address immediate and short-term supply problems in certain areas.

Small and home businesses can benefit from the implementation and rollout of wireless services in the short to medium term as their requirements for very high speed data services have not yet been developed, mainly due to the paucity of applications available. Geographic availability and price sensitivity remain key inhibitors to adoption of wireless services by many small, micro and home businesses.

The “Build it and they will come” concept of infrastructure development has not been successful with the small and home business sector. The lack of an identifiable value proposition remains a key factor. Furthermore the supply side of the industry places excessive reliance on the user/demand side to comprehend and assimilate complex technologies. For time-poor small and



home businesses the reliance on DIY services and the growing threat of malware create significant barriers to adoption.

Guidance for Users of New Services

2.2 SETEL supports the development of trusted intermediaries and local/regional 'ownership' models so that assistance and guidance is made available to users in order to facilitate uptake of new services.

Continued reliance on service providers and channel partners to retail products and services, of growing complexity, to small and home business users is holding back adoption rates.

SETEL accepts that many small and home businesses are fearful of the impacts on future supply of services and provision of new services in non-metropolitan areas following the sale of the remainder of Telstra. Reliance on current regulatory mechanisms is not considered to be adequate. Users remain unconvinced that the marketplace will supply the required services and level of service in all areas of Australia. Commercial activities to date have seen too many new service offerings limited to metropolitan areas (understandably in many cases where a certain level of user base is critical for success).

The Australian SME E-Commerce Taskforce Report (July 2002)³ recommended the need for both regional and industry sector specific demand aggregation activities. That situation still applies.

Regional or Community Influence is Important

2.3 SETEL supports the introduction of a program to create incentives for regional communities to secure control over infrastructure ducting and cabling facilities to foster competitive supply of services.

In the complex communications market there are several scenarios for competitive supply ranging from simple resale of another's services to full competition. In Australia it is rare for Telstra to be out of any market for long if a new technology shows promise or poses a threat to existing markets. Many of the new entrants have promised or promoted their intention to service the SME sector but few have been successful. In SETEL's view, most of the benefits of competition in the telecommunications market have been experienced by big business and government users. Too often small and home businesses are faced with little or no choice of provider and no access to newer technologies.

Formerly competitors blamed lack of access, at reasonable prices, to 'last mile' infrastructure – that connecting the end user to the exchange. Following some breakthroughs in that area the competitors are complaining about backhaul



costs – prices of accessing the major networks between exchanges and being able to channel significant amounts of data across that infrastructure.

SETEL's Tier 2 policies address both situations with the aim of providing sufficient ducting and cabling infrastructure to allow competitors to compete on services. Consideration must be taken of the infrastructure already in place and this includes that of other carriers as well as Telstra.

Equivalent Costs throughout Australia

2.4 SETEL supports the aim of achieving modern data services being supplied to small and home businesses, at costs equivalent to city services, throughout Australia.

It could work with a single carrier model if that carrier saw fit to invest in the necessary technologies – but in the current quasi-competitive market most new technologies are very, very slow to gain a foothold.

In the longer term, adequate levels of competitive supply provide the answers to provision of better and upgradeable services. The cost of telecommunications infrastructure is a major disincentive to investment and inhibits implementation of innovative services.

2.6 Create a Register of Designated Areas in which there is deemed to be zero or unsatisfactory availability of broadband services to small business and residential consumers at affordable rates, equivalent to those payable by counterparts in metropolitan areas.

2.7 Create a Register of Designated Areas in which there is deemed to be zero or unsatisfactory competition in the supply of broadband services available to small business and residential consumers at affordable rates, equivalent to those payable by counterparts in metropolitan areas.

The development of broadband networks in Australia can be viewed as a form of long-term critical infrastructure. Governments will have an increase responsibility to foster networks and infrastructure that enable them to achieve efficiencies in delivering e-government, e-health, e-learning and e-information. Wireless services can offer 'gap fillers' as well as viable communications facilities and in the short to medium term can be seen as having the potential for overcoming infrastructure limitations, delays in network deployment and avoiding the high costs of wireline broadband access.

Tier 3: Programs to Raise Public Awareness

The following are separate from the infrastructure programs as they are carrier specific and affect current network arrangements. SETEL considers them to be important in terms of de-mystifying the availability of ADSL services in certain areas. Potential users need to be aware of the likelihood of failure to obtain an



ADSL service because of non-provisioning of an exchange, the limitations of the cable run (distance from an exchange) or the existence of limiting devices such as pair gains/RIMS.

- 3.1 National Register of ADSL-enabled Exchanges: The Commonwealth Government to maintain a register of all telephone exchanges in Australia that enable the provision of ADSL services to users in that region.
- 3.2 Area Maps to signify reach of ADSL service from exchange: The Commonwealth Government to maintain a register of spatial and area-specific information relating to telephone exchanges in Australia that have been made ready for the provision of ADSL services to users in that region to indicate the ready availability of ADSL services in that region or area.
- 3.3 Publicly available register of existence of RIMS/Pair Gain features: The Commonwealth Government to maintain a current register of the location of all network facilities such as RIMS and Pair Gains that affect the provision of ADSL services to users supplied by exchanges denoted as ADSL-enabled.

Expanded Accessibility of Currently-available Services

- 3.4 In the interim SETEL sees merit in making currently available services more accessible to potential users.

For a significant number of small, micro and home-based businesses, the availability of faster data services through ADSL can achieve efficiencies within their businesses and will foster the development of new applications as well as usage of a wider range of existing applications. Lack of access to low broadband speeds (256Kbps) is a major factor in inhibiting the use of the Internet for the purpose of improving business transactions and activities.

Accuracy of Information

- 3.5 SETEL proposes a process that assists businesses (and residential consumers) to ascertain the true state of accessibility to faster data services provided by ADSL.

Frustration can develop when a potential ADSL customer is advised that ADSL is 'available' from the local exchange but actual connection is rendered impossible or not-readily-achievable by excessive distance (by cable run) from the exchange or the existence of 'in-place' technologies.



Suggestion of new projects to enhance effectiveness of Connect Australia

The following initiative is recommended to enhance the impact of the Connect Australia Plan by providing support to aspiring service providers who have already sought to offer competitive broadband services in regional areas of Australia.

Regional Broadband Entrepreneur Program

SETEL sees a need to recognise important contributions to competitive delivery of broadband services to users in regional and outer metropolitan areas by entrepreneurs such as Anthony Goonan of YLESS4U.

These entrepreneurs can be encouraged by facilitating the fast tracking of applications for Government assistance through programs such as HiBIS and Metropolitan Broadband Connect.

Additional recognition could be via provision of promotional support from the Minister for Communications and related areas (AusBiz/Aus Industry) for these initiatives.

In order to contribute to the commercial sustainability of these enterprises SETEL *recommends* the establishment of dedicated team within the ACCC to deal with complaints against predatory behaviour or unconscionable conduct by much larger competitors.

SETEL *recommends* that the Department and others develop and distribute case studies to assist similar projects.

Risk

Subsidy schemes such as Broadband Connect are designed to alleviate part of the risk of providing services generally in areas where commercial supply is deemed to be marginal or not viable. Funding is limited to provision of capital equipment with the expectation that the supplier of the service will be responsible for all operating and maintenance costs. Furthermore there is an expectation that the supply of the service will be commercially viable for a period of ten years.

In a scenario of regulatory independence any decline in investment risk results in an increase in investment in network development. However all supply parties in Australia feel that the level of regulatory independence is not sufficient to encourage risk taking in network investments other than in very heavily populated areas. Hence there is a need for subsidy programs to encourage development and investment in regional, rural and remote areas.



Regulatory practices should encourage both social and economic goals.

Broadband Connect or other Government policy should be used to broaden the horizons on who can contribute to telecommunications network development in Australia. National or Regional Broadband Co-ordination Committees may be given the 'power' to contract specialist infrastructure developers (e.g. Leighton's or Transfield) to provide community infrastructure. There is scope for involving equipment suppliers (e.g. Ericsson, Marconi, Alcatel) in these projects.

Separate Infrastructure Providers

2.5 SETEL considers there is merit in separating long-term infrastructure components such as ducting and cabling (which can provide economic returns for up to 50 years and longer) from other forms of infrastructure requiring faster payback times.

2.8 National Infrastructure Duct Program: Governments to promote (and subsidise if necessary) a national program for the installation of infrastructure ducting in metropolitan, outer metropolitan, regional and rural communities (including country towns in excess of a population of 250 persons) and where there is a lack of critical infrastructure to provide competitive access to broadband services to enable regional communities to take greater control over communications services of relevance and benefit to their communities.

2.9 National Infrastructure Cable Program: Governments to promote (and subsidise if necessary) a national program for the installation of infrastructure cable in metropolitan, outer metropolitan, regional and rural communities (including country towns in excess of a population of 250 persons) and where there is a lack of critical infrastructure to provide competitive access to broadband services to enable regional communities to take greater control over communications services of relevance and benefit to their communities.

SETEL *recommends* that the Government:

- adopt the concept of separating long-term infrastructure components such as ducting and cabling (which can provide economic returns for up to 50 years and longer) from other forms of infrastructure requiring faster payback times (2.5 above); and
- implements 2.3, 2.6, 2.7, 2.8 and 2.9 above.

Access to Backhaul Services

2.10 SETEL prefers to see open access to backbone infrastructure for consumer-related communications services since there is a strong element of public good rationale involved.



If a single carrier is not able to deliver the necessary level of broadband services throughout Australia provision must be made for telecommunications consortia or community co-operatives to provide the mandated services, particularly in areas where a single 'notional' carrier would apply an argument of lack of commercial viability as a reason for non-supply.

Tier 4: Regulatory Measures

(Activities designed to facilitate competition)

Competitive Markets

SETEL notes that bundling remains a concern to competitors and access seekers and that they require ACCC powers to prevent Telstra from using anti-competitive cross-subsidisation or 'margin shifting' to undermine competition. The broad horizontal integration of Telstra into companion markets such as Pay-TV and Directories enables Telstra to offer a suite of services to customers and to provide discounts on those services offered by competitors.

4.6 SETEL believes that it could be advantageous, from a competition viewpoint, to include an increased number of services in an operational separation model to enable competitors to gain a foothold in the market and thus be able to provide services in a broader range and wider number of areas.

Small, micro and home business customers are too often faced with the dilemma of selecting a one-stop-shop provider for all services (perhaps with bundling discounts) and locking themselves into a long-term contract rather than 'playing the market' for a range of competitive services. In many areas there is no competition – due to lack of access or lack of willingness of competitors to invest.

Competition policy favours long-term benefits to end-users. We simply do not see it working well in Australia at present, and for the foreseeable future, in the telecommunications market. Hence the need for appropriate Government intervention in the form of the Broadband Connect and Clever Networks programs.

Clever Networks

SETEL contends there is a need to broaden scope of activities of this program to increase community input thus leading to much wider community access and the maximisation of positive outcomes. A good example is a current program underway in New Zealand where similar access problems are being faced by non-urban communities.



NZ Reference: The Broadband Challenge

The NZ Government is working to create a future environment where prices for broadband (high speed internet) services continue to fall and where connection speed continues to rise. The Broadband Challenge aims to accelerate the provision of affordable broadband services to regional centres and previously unconnected areas.

In response to the strong call for “cheaper, faster broadband, now”, the NZ Government is making \$24.0 million available over four years to enable affordable broadband. The Broadband Challenge is also supplemented by the \$1.44 million PROBE Extension fund.

Rolling Out Fast Broadband

In other countries, providing open-access fibre has sped up the rollout of fast broadband. This is often achieved by partnerships between local government and public institutions such as universities, hospitals, or central government.

In a small market like New Zealand, more targeted action is needed when market incentives do not work fast enough. In many towns and cities in New Zealand, local connections can still act as a constraint on high-speed connectivity.

The Broadband Challenge provides for fast broadband rollout by supporting partnerships with achievable development plans

The Broadband Challenge is made up of two inter-related development programmes aimed at addressing broadband connection issues for all New Zealanders.

- *Urban and Metropolitan Networks*, where the objective is high speed connectivity for urban and regional centres; and
- *Remote and Under-served communities*, where the objective is to address the lack of access of rural and under-served communities and businesses to affordable broadband.

This funding makes up one part of the Digital Strategy initiative to facilitate greater “connection”, and is complementary to the Community Partnership Fund which will help develop content applications and build the capability of communities to use infrastructure communications to best effect.

The Government provides seed funding for the development of broadband networks, with local government and regions being central to the process, harnessing the input from their businesses and wider communities.



Applications for Broadband Challenge seed funding will be processed in a two-stage process.

- Expressions of interest stage: Applicants seeking funding must submit a preliminary application and outline supporting documents. The purpose of this stage is to determine which Applicants (if any) will be invited to submit a full application.
- Full application stage: Applicants are invited to submit a full application and detailed supporting documents. The full applications will be assessed against the criteria and the level of funding (if any) will be determined at this stage.”

SETEL has advocated the inclusion of State and Local Governments in the responsibility for providing adequate fast (broadband) data communication services in regional, rural and remote areas. We see those bodies having a responsibility to contribute to the funding of a higher-grade USO as they stand to benefit significantly from economic developments and creation of efficiencies, in relation to the delivery and utilisation of their services, in their regions.

SETEL notes the precedence given to health and education sectors in relation to provision of fast broadband services and seeks processes that leverage the benefits of the networks and infrastructure used to provide services to institutions of these types for the purposes of facilitating supply to the general community.

An existing national strategy (NBSIG) appears to heavily rely on the co-operative involvement of Federal and State governments, but the latter seem more often to activate their own initiatives for their own purposes.

SETEL *recommends* that the Clever Networks Program should, in part or in full, be included under the jurisdiction of the proposed national co-ordination group with a view to maximising the benefits of outcomes from funding support.

The question then arises – can this process access part of the funding available under the Broadband Connect Program in order to generate expanded provision of higher speed data services (preferably at a level commensurate with the needs of the government institutions) that can be made available to regional communities?

Discussion Paper Questions

The following comments relate to questions posed in the discussion paper.



Long term sustainable quality broadband solutions

There are many factors that will affect the supply and demand of broadband services and, therefore, the long-term sustainability of broadband infrastructure and services, eg rate of return, risk, cost of capital and the emergence of, and rate of diffusion of, new technologies.

Indeed, there are also many factors that can affect the supply capital for broadband investment, which may be funded by debt, equity and/or financial grants from the Commonwealth. The relative costs of these sources of capital will determine the mix of funding for any broadband investment and whether investors' required, risk adjusted, rate of return on capital will be met. Investors, including Telstra, will decide whether an expected, risk adjusted, rate of return from investment in broadband projects is sufficient, or that their money is better allocated to other more profitable investments. Indeed, Telstra may also decide to return capital.

Whilst investment in telecommunications infrastructure is seen to be a relatively high-risk investment compared with investment in other industries, there is likely to be a scarcity of capital to fund broadband projects. Competitors of dominant carriers and major carriage service providers face uncertain conditions in financial and telecommunications services markets.

Competitors need to attract risk capital for investment in broadband network development. However, an apparent diminishing pool of capital available for investment in network development projects in coming years, means the prospects of significant capital raisings are unlikely and unattractive. The diminishing pool has been, and/or seems likely to be, exacerbated by:

- Significant financial losses by private sector investors in Telstra shares purchased from the Commonwealth (T1 and T2).
- Commonwealth's plans to sell its 51% shareholding in Telstra to the private sector means that money that would otherwise be available for investment in broadband projects may not be available.
- Relatively low returns and high risks associated with capital investment, particularly by companies in competition with dominant carriers.
- The experiences of telecommunications company failures (e.g. OneTel and New Tel) and risks of failure (e.g. Nextgen Networks \$850 million business is in administration, with reported losses by superannuation funds and other investors⁴ and liquidation of the \$160m Perth-Melbourne IP1 network.)

Accordingly, the design and delivery of Broadband Connect will need to be sensitive to such considerations, which may change over the life of the program. Review of the program on regular basis to ensure that its design and delivery are still appropriate would seem to be essential.



The quality of business plans submitted in support of funding should be good indicator of the likely long-term sustainability of proposed broadband solutions for regional, rural and remote Australians. Assessment of the relative merits of these business plans (presumably including financial and risk management plans and Rate of Return assessments) will be fundamental to the success or otherwise of the Program, as will management of agreement entered into with the Commonwealth.

Indeed, Commonwealth funding for most proposed broadband solutions amount to the “under-writing” for investors and/or transfer of risk from investors to the taxpayer.

The capacity and skills of the resources available to the Department to undertake assessment of business plans and make “right” recommendations and/or decisions about which projects should receive financial assistance will also be critical to the success of the program.

Under-Investment in Human Capital, Skills and Applications

A theme pursued by SETEL in its various public submissions over the last two or so years, is summarised in a book: *Stimulating Investment in Network Development - Roles for Regulators*, edited by Amy Mahan and William Melody, June 2005. From this book:

Under-Investment in Human Capital, Skills and Applications

It is now apparent that the preoccupation with investment in new technologies has led to massive over-investment in physical capital on certain components of the supply side of network development, i.e., facilities; and under-investment in associated human capital on the demand side, i.e., skill development and applications. New technologies don't mean much if potential users have no appreciation of their capabilities, the necessary skills to use them effectively, or an understanding of how they can be used in some beneficial way.

Despite all the visionary statements about the importance of investment in human capital in the new network economies and knowledge societies, there is little evidence that it has been occurring beyond excessive management salaries and stock options in companies that are now mostly bankrupt. Clearly an investment profile for successful network development must encompass investment in human capital to facilitate demand as well as physical capital to create supply.

In helping to shape an environment for productive investments, investors, policymakers and regulators will need to look beyond the narrow issues of creating a supply of network physical capacity by telecom operators. They will need to attend to issues of demand and human capital, as well as the facilitation of demand – key factors



influencing successful network rollout toward universal access objectives that are too often neglected.

Accordingly, SETEL *recommends* that program funding should give due consideration to under-investment in associated human capital on the demand side, i.e. skill development and applications. These are an essential component and pre-condition to achieving long term sustainable quality broadband *solutions* for regional, rural and remote Australians.

Furthermore, the role of the competition regulator, the ACCC, in stimulating investment in should also be kept in mind when allocation program funding.

Tender Process

The Discussion Paper makes reference to a proposal that some program be funding allocated up-front to give providers certainty to invest in large-scale broadband rollouts in rural areas. It notes that this payment method would require a tender process.

SETEL foresees competitive tendering as potentially complex, time consuming, and a relatively risky and costly process, with no guaranteed benefit flowing to small business and other consumers from tendering for “large-scale” broadband rollouts.

SETEL would be concerned if funding for “large-scale” broadband rollouts were to consume the “lion’s share” of the program.

Complex commercial, legal, government, and public interest concerns seem likely to arise in the course of tender processes. Nevertheless, SETEL sees merit in a small number of competitive tendering models being developed and trialled as a means to achieving long-term sustainable quality broadband *solutions* for regional, rural and remote Australians.

Any proposed tender process should be subject to public scrutiny through publication of a Departmental discussion paper, as was the proposal in 1999 for the development of competitive selection mechanisms, including tendering, for the telecommunications Universal Service Obligation.

Tendering processes that simply substituted one USO provider for another in the interests of more efficient resource allocation, marginally reduced the USO subsidy and provided a substantial benefit to the Commonwealth Budget (see below), (but not enabling choice and other perceptible benefits), will be seen by consumers as being a ‘fruitless’ exercise.

SETEL is supportive of initiatives for the development of pro-competitive, market-based mechanisms for allocation of program funding, provided there are not long delays in the awarding of tenders.



SETEL has long advocated, in accordance with sound commercial practice, that performance covenants, including quality of service standards (and any price control arrangements) should be written into a provider's contract and/or form part of licence conditions. Where performance covenants are agreed they should form an integral part of the contractual obligations. Provisions for any excusable events should be clearly defined so that the rights and obligations of both parties to the contract are clearly understood. The Commonwealth's leverage and flexibility to enforce performance covenants entered into by the provider of services should be balanced against the need to do so, by the use of commercial and/or regulatory penalties and/or incentives.

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Endnotes

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- ² Karen Curtis, Director Industry Policy, ACCI (2002) *Priority Issues Identified by SME E-Commerce Thinktank: Presentation: Awareness / Understanding / Access / Affordability*, February, <http://www.setel.com.au/smeforum2002/fp/FP09.pdf> (Accessed 19 January 2006)
- ³ Australian SME E-Commerce Forum Taskforce (2002) *Accelerating the Uptake of E-Commerce by Small and Medium Enterprises: A Report and Action Plan by the Australian SME E-Commerce Forum Taskforce*, July, <http://tinyurl.com/cj4jl> (Accessed 19 January 2006)
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