

OPTUS

Submission in response to
Department discussion paper

**Better delivery of universal
service**

Public Version

March 2024

EXECUTIVE SUMMARY

1. Optus welcomes the opportunity to provide a submission in response to the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the Department) consultation on “*Better delivery of universal services*” (*Discussion Paper*).
2. Telecommunications has radically changed since the law reforms of 1997 when fixed line, voice-only services were dominant. Mobile services have become Australians preferred means of communication with competitive mobile networks accessible by 98.5 percent of the population. Telstra’s copper network has largely been replaced with NBN fibre while fixed wireless and satellite deliver access in harder to serve regional and remote areas. Recent advances in satellite technology, particularly LEO Sats, have opened new opportunities and the possibility to permanently bridge the digital divide. The result is that standard telephone services (STS) are increasingly delivered via non-fixed networks.
3. Telecommunications is now considered an essential service.¹ The Universal Service Obligation (USO) has played a role in ensuring that all Australians, regardless of location, can access a STS on request. This has been particularly important for parts of Australia where there have been no alternatives to Telstra’s copper network. However, the need for regulatory driven delivery of basic voice services, is now, and has been for some time, the exception rather than a universal rule. Optus submit that while there are clear circumstances where regulation may be needed to deliver universal service policy outcomes of “accessibility, affordability and availability”, these may be better realised via targeted responses to specific use cases. Rather than re-regulating the provision of voice services, USO reform should be approached from the perspective of whether the market may achieve the desired outcomes.
4. USO reform should also help promote competition in regional and rural Australia. A market will not function as effectively where subsidies, particularly flowing from industry to the incumbent, continue to sustain legacy market structures for no real consumer benefit. Telstra’s network coverage is crucial to its branding and reputation as the only network outside urban areas and regional centres – it does not need Government funding to support this.

Trials should avoid entrenching supply of existing services

5. Telstra’s advantages in regional Australia, supported through historic Government policies, raise barriers to competition. The USO, along with other Government connectivity programmes, continues to entrench Telstra’s market power. To address this, trials of alternative services should avoid cementing anti-competitive market structures via new satellite platforms.
6. Optus has reviewed the Request for Tender (RFT) “For the provision of technical trials and analysis of alternative voice services” issued on 9 February and closing on 6 March 2024.² In our view, the detailed requirements of the RFT, in particular the requirement that “tenderers must have capacity to trial services at a minimum of 50 sites throughout Australia”³ and the strict short deadline for tender submission, effectively limits the RFT to incumbent voice service providers. As a result, the trial is unlikely to consider new or alternative satellite service offerings but rather confirm already “tested and proven” incumbent services. This appears counter to the stated objective of the trial to enable

¹ ACMA, What consumers want – Consumer expectations for telecommunications safeguards, A position paper for the telecommunications sector, July 2023, p.1

² RFT No. 10028627

³ 3.2.2; RFT

Government to “better understand the performance and reliability of voice services delivered over alternative and emerging technologies, including LEOSats”.⁴

7. Optus urges the Government to avoid entrenching existing market structures at a time when new LEOSat services are disrupting the market. To this end the Government should holistically assess existing satellite offerings (GEO, MEO and LEO) to determine whether the USO is required outside the NBN fibre footprint. If the Government concludes the USO should be retained in these areas, Optus suggests that the Government gather data from the trial with a view to setting out a transition plan for the repeal of the USO across Australia. To this end, Optus consider that USO reform should be guided by the following principles:
 - (a) Contestability – there should be no USO where there are at least three (3) retail service providers capable of providing a VoIP service to an end-user – accordingly there should be no further funding allocated to Telstra’s supply of voice services within the NBN fixed (line and wireless) footprint.
 - (b) Availability, accessibility and affordability – Delivery of baseline telecommunications services at a competitive market price and of sufficient quality to enable an individual to participate in Australia’s digital economy from a fixed location. For clarity, there should be no mobile USO.
 - (c) Existing regulatory safeguards provide a sufficient safety net – Australia’s consumer protection laws and extensive telecommunications codes and regulations are robust enough to provide a safety net for consumers, with respect to quality of voice services and service level assurance.

Telstra should be publicly accountable for USO performance

8. Optus has long called for reform of the USO, and we welcome the approach that the Government appears to be taking in the context of new technological developments, particularly in satellite services. We acknowledge that the Government intends to consult on USO funding separately but consider that funding cannot be considered in isolation to the nature and scope of USO services. Further, while the Telecommunications Universal Service Obligation Performance Agreement (TUSOPA) is in place, Optus remains sceptical of the possibility for true reform to deliver the benefits of competition for regional Australians.
9. There is no real transparency about whether and how TIL funding is spent and as a result it is impossible to assess Telstra’s claims of value for money in delivering the copper continuity obligation (CCO). This lack of transparency undermines accountability and confidence in the administration of the USO and makes impossible objective debate about reform. To address this and promote informed stakeholder engagement on any USO reform, the Government should follow the recommendations of the FOI Commissioner and immediately publish the TUSOPA.
10. The repeal of the USO should be the Government’s target reform objective and Optus hopes that the Government will take the opportunity to set out a transition plan to a more market-oriented approach. This plan should reflect the outcomes from trials and also be informed by ongoing entry and adoption of new services in the market. In any event, TIL requirements for all non-Telstra CSPs must be removed. There is no objective reason why the rest of industry should support Telstra to meet its regulatory obligations and benefit from marketing itself as outer regional Australia’s only network.

⁴ 2.1.7; RFT

11. Optus will provide further detailed feedback on funding arrangements in response to the Departments upcoming consultation. We set out general comments and specific responses to the Discussion Paper below and also refer the Department to the submission from Communications Alliance.

IT'S TIME TO CUT THE CHORD – A PLAN TO REPEAL USO

Industry should not have to fund Telstra to meet its regulatory obligations

12. The stated objective of the universal service regime is “to ensure that all people in Australia, wherever they reside or carry on business, should have reasonable access, on an equitable basis, to: (a) standard telephone services; and (b) payphones”.⁵
13. Telstra is the primary USO provider and as a condition of its carrier licence, it must ensure STS and payphones are reasonably accessible to all Australians.⁶ Telstra receives annual funding of at least \$270 million towards meeting its USO via the Telecommunications Industry Levy (TIL),⁷ which includes a \$100 million appropriation from the Government.⁸ Ultimately this money goes to Telstra to meet its regulatory obligations, enabling it to supply services to its customers, and further cement its reputation as the “only network” in outer regional Australia.
14. Well-designed subsidies and Government funding programs can help encourage investment in harder to serve areas. However, an industry funding scheme such as the TIL takes capital away from Telstra’s competitors that they may otherwise have invested in competitive alternatives to Telstra’s decaying copper network. Since 1992 Optus has paid Telstra more than \$1.2 billion in USO levies, which we could have invested in our mobile network. This has resulted in Optus’ mobile network being almost one million square kilometres smaller than it could otherwise have been.
15. In Optus’ view, requiring industry to fund Telstra to meet its USO is inefficient and, conversely, causes consumer harm due to a lessening of retail competition and infrastructure investment. As the rest of industry gains no benefit from funding Telstra to meet its USO, the Government’s first reform should be to repeal all (non-Telstra) TIL requirements. Government funding should be reviewed and ultimately directed at supporting those services that are truly non-commercial, or to onboarding regional and remote end-users to proven alternative services.
16. Of course, our views are not informed by full information on how the USO is funded. As noted, there remains an unacceptable lack of transparency over the 20-year TUSOPA. Full disclosure of TUSOPA is also supported by the FOI Commissioner, who found, on review of Vodafone’s FOI request, that she was “not persuaded that the information is particularly sensitive in nature” nor that it “would confer a competitive advantage on Telstra’s competitors”.⁹ The Government should release the TUSOPA contract to assist proper policy development of USO issues.

Trials should be designed to support market entry for long term consumer benefit

17. The Discussion Paper notes that a principle for considering change to existing arrangements should be whether there are “tested and proven alternatives to existing technologies and services.”¹⁰ Optus agrees with this principle though notes there are already services that have arguably be “proven”, both through previous trials, such as

⁵ Section 8; *Telecommunications (Consumer protection and Service Standards) Act 1999* (the Act)

⁶ See also section 9 of the Act

⁷ [Telecommunications industry levy \(TIL\) overview | ACMA](#)

⁸ Telstra received \$222 million in Government grants during FY2022-23 including under TUSOPA and the MBSP; [Telstra Annual Report 2023](#); p.100

⁹ [Telstra's 20-year USO agreement with gov can be given to Vodafone - Telco/ISP - iTnews](#)

¹⁰ Discussion paper, p.1

the Alternative Voice Service Technology (AVST) trials in 2021-22,¹¹ and in the market. Optus completed the AVST with new and evolving technology designed to provide voice equivalent services, including carrier grade satellite VoIP and also Optus femtocells not yet in market. The June 2023 results indicate that the Optus solutions performed well if not best in class on most performance metrics. As a result, Optus consistently achieved the highest mean opinion score of all trial services.¹²

18. The Government's recently released tender documents for the proposed trials reflect the high bar that the Government is aiming for to validate alternative USO services.¹³ While understandable to the extent that the Government appears to be guided by the existing regulatory framework in setting the permissible service benchmarks, the trial parameters should not deliver a pre-determined outcome. Assessing new commercial services against the existing USO and CSG regulatory framework defeats the purpose of promoting competition and may serve to discredit legitimate commercial service offerings in the market. In 2022, the Regional Telecommunications Review Committee recommended:

“that the Government fund innovation trials to validate the value and reliability of new technology solutions able to address broadband and mobile coverage across regional, rural and remote Australia. The Committee further recommends that the focus of the funding be targeted toward those technologies that have not yet been deployed commercially at scale or are not currently provided by existing commercial solutions.”¹⁴

19. Above all, trials should avoid the outcomes of other connectivity programmes designed to improve regional mobile coverage (Mobile Blackspots Program and the Regional Connectivity Program) which have generally served to strengthen Telstra's market position as Australia's regional monopolist. To this end, Optus suggest that utilisation of the already funded AVST sites would help encourage further investment in sites that have already been selected for the purpose of voice trials. This will provide a useful baseline against which to measure the evolution of technology, particularly satellite and LEOSats, since the completion of the AVST trials, and help highlight what is to come.

Some flexibility in trial requirements is needed to realise the full benefits of new technology

20. Optus has reviewed the Request for Tender (RFT) "For the provision of technical trials and analysis of alternative voice services" issued on 9 February and closing on 6 March 2024.¹⁵ Optus is concerned that the detailed requirements of the RFT, particularly the short timeframe in which to prepare a tender and that "tenderers must have capacity to trial services at a minimum of 50 sites throughout Australia", appear to favour the competitive advantages of certain incumbents.
21. For example, NBN Co will be able to leverage its existing voice services over SkyMuster, while Telstra is best placed of all RSPs to deliver on service assurance expectations, including for any residential grade LEOSat service, by way of its existing field technician workforce. By "trailing" in-market services, the Government will in effect "stamp" incumbent services with the USO quality assurance, encouraging existing customers to stick with Telstra, thereby raising barriers to entry for new innovative solutions.

¹¹ The AVST trial included Optus satellite VoIP and satellite wireless PoP, as well as Optus femtocell technology all of which are designed to provide voice equivalent services; [Alternative Voice Services Trials Program | Department of Infrastructure, Transport, Regional Development, Communications and the Arts](#); June 2023

¹² <https://www.infrastructure.gov.au/sites/default/files/documents/avst-report-1-july-2021-to-30-june-2022.pdf>

¹³ [ATM Documents - RFT10028627: AusTender \(tenders.gov.au\)](#)

¹⁴ 2021 Regional Telecommunications Review; Recommendation 4, p.5

¹⁵ No. 10028627

22. [CIC]
23. [CIC]
24. [CIC]
25. [CIC]
26. The Government should maintain the momentum of the LEOSat Working Group and recent commercial satellite initiatives to support end-user adoption of new services. There may be performance trade-offs, such as the limited effect of rain fade on service availability, however, on other metrics, low latency enables an improved satellite delivered voice experience using speeds and capacity that considerably outperform existing USO services.¹⁶ Even without regulated service guarantees and relatively high-priced offerings, the rapid take-up of Starlink services is clear evidence of a willingness to pay for USO alternatives in the regions.¹⁷ It is our view that future LEOSat networks will provide superior end user experiences to those on offer today.
27. Optus is Australia's only dual mobile and satellite network operator and is therefore well placed to understand the connectivity opportunities afforded by multiple complementary wireless networks. Optus is also the only network provider in Australia to operate its own fleet of (five GEO) satellites, providing a number of critical and sovereign satellite services to millions of Australians. LEOSat solutions such as Optus and SpaceX collaboration have captured the public attention with the potential of satellite direct to mobile services. However, satellite systems of all configurations (GEO, MEO and LEO) have a role to play in "plugging gaps" in terrestrial connectivity.
28. Optus notes that, GEO satellites can provide voice services across the country as demonstrated by Optus during the Government's AVST. Further, despite higher latencies than LEO Sat, GEO satellites can also provide the speeds and capacity that outperform existing universal services (exceeding the SIP baseline of 25/5 Mbps).
29. In combination, multiple satellite systems offer real network redundancy and resilience for regional and remote Australia. If a trial is designed with parameters that effectively limit participants perhaps to operators already supplying retail services, then the Government will have lost another opportunity to promote market entry and competition in regional Australia. Rather than "pick winners" the Government should holistically appraise whether the emerging "system-of-systems" communications environment is sufficiently competitive to deliver desired consumer outcomes and cut the USO chord.

The market is delivering high quality telecommunications for all Australians

30. To be effective, a USO framework should be regularly reviewed in order to adapt to changes in technology and the market. This Discussion Paper follows numerous consultations and inquiries into the operation of the USO.¹⁸ The resounding message from these inquiries is that the USO is anachronistic and undermines private investment in competitive infrastructure in areas of Australia that need it the most.¹⁹ Yet despite some minor adjustments to Telstra's reporting and the Determination governing the circumstances in which Telstra is to supply an STS, there has been little USO reform.

¹⁶ See for example, Discussion Paper, p.10 and 11

¹⁷ [Elon Musk's Starlink has charged past the NBN's number of \(afr.com\)](#)

¹⁸ including by the Productivity Commission, the Australian National Audit Office (ANAO) and the Department itself

¹⁹ Productivity Commission (PC) 2017, Australian National Audit Office (ANAO) 2019

31. The USO is based on legislation originally enacted in 1999.²⁰ The baseline performance metrics for the STS are set out in a 2004 Code that pre-dates IP telephony standards.²¹ Yet, SIPs are now required to connect premises to their fibre networks and supply wholesale services that enable at least 25/5 Mbps broadband services. VoIP services via traffic class 1 are available over all NBN access technologies²² and there are now at least 18 retail service providers present in all 121 points of interconnect, many of which provide retail voice services.²³
32. The wider telecommunications sector remains dynamic and there has been seven years of network investment since the Productivity Commission found that “TUSO should be wound up and replaced by a new universal service framework to reflect policy, market and technological realities”.²⁴ The Discussion Paper acknowledges that “most commercially available services delivered over terrestrial infrastructure have low latencies that are able to easily support quality voice calls, including mobile services, fixed line and fixed wireless broadband”.²⁵
33. There are services for which the USO and attendant funding requirements should be repealed now. The most obvious of these is the approximately 14,500 payphones towards which \$40 million of annual TIL funding is provided to Telstra. There is no reason to maintain payphones in any areas that are adequately served by mobile networks.²⁶ If payphones are to be maintained for public interest reasons they should be funded by the Government as a non-profit community service. To support migration off legacy copper, funding could be redirected to provide demand side support for the wider adoption of new technologies.
34. Telstra’s USO extends to priority assistance services for customers with diagnosed life-threatening medical conditions.²⁷ While the market can and does deliver voice services across all technology platforms that outperform the STS requirements, there are vulnerable consumers and end-users with particular needs that may require support to ensure they can access services suited to their needs. However, such a policy objective is better delivered via direct subsidies or financial support schemes designed for vulnerable customers rather than a cross-subsidy arrangement such as the USO.

The Government should set out a clear path to repeal the USO

35. Optus remains the only real alternative mobile network to Telstra’s outside of the major metropolitan areas. We seek to challenge Telstra’s dominance in regional Australia. For example, Optus’ innovative collaboration with SpaceX to deliver direct to device services in un-served areas of Australia “shifts the dial” on bridging the digital divide by offering the potential for connectivity across the country via existing mobile devices.
36. However, we also appreciate that there are political and societal complexities to be considered in migrating long term Telstra customers to new services. Legacy (copper) fixed line voice services are in terminal decline, yet Telstra is still paid \$270 million a year to maintain them:

²⁰ Part 2 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (Cth)

²¹ *End-to-end network performance for the STS 2004*

²² [nbn® voice services | nbn \(nbnco.com.au\)](https://nbnco.com.au/nbn-voice-services)

²³ ACCC, Communications market report 2022-23; p.6

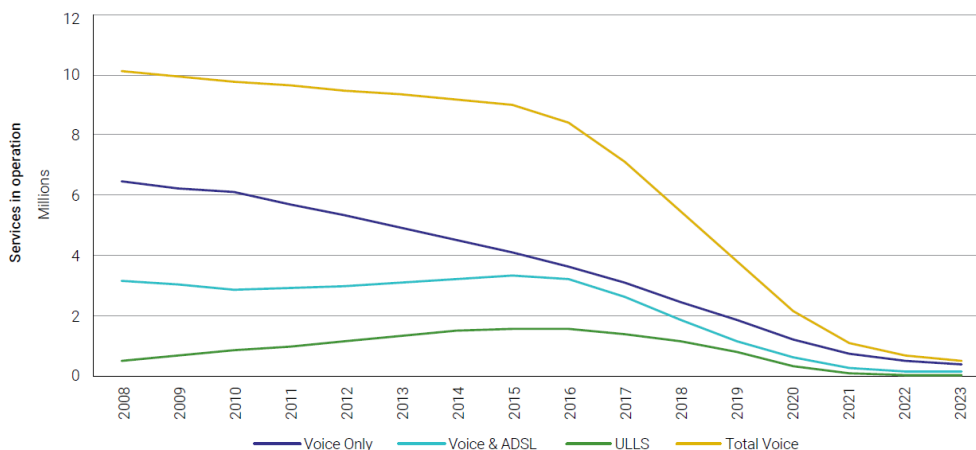
²⁴ PC Report, p.9

²⁵ Discussion Paper, p.

²⁶ Optus submission to Departments’ consultation on “Review of sunseting payphone instruments”; Feb 2022

²⁷ [Telstra - Universal Service Obligation \(USO\) - Customer Service](#); NBN also states that it “supports providers who give priority assistance services” and “aims to provide the same connection and fault rectification times” prior to migrating to an NBN service” [Priority assistance | nbn \(nbnco.com.au\)](#)

Figure 15: Telstra legacy fixed line services 2008–2023



37. The USO no longer provides a meaningful safety net to regional and remote Australia, but rather protects Telstra from competition to the detriment of end-users. Optus encourage the Government to take the opportunity afforded by new technological developments to map out a transition plan to repeal the USO. We consider the Government should be guided by these high-level principles:
- (a) Immediately repeal the USO from all areas where there are at least three networks, including mobile and/or satellite networks, capable of supplying voice or voice equivalent services (VoIP) to a fixed location.
 - (b) For all other areas, Optus recommend an incremental approach to repealing the USO based on the results of suitable trials and engagement with affected communities. The Government should produce a migration plan and develop a supporting public awareness campaign to move remaining services off Telstra legacy network infrastructure – this should happen well before 2032.
 - (c) Consider whether existing consumer protection laws and arrangements applying to the sector (TCP Code) are sufficient to provide a safety net for consumers, with respect to quality of voice services and service assurance.
38. Optus recommends an incremental approach to repealing the USO in areas outside the NBN fixed wireless footprint based on the results of trials. This may be coupled with a public awareness campaign to encourage migration of these end-users offer the copper and onto new (proven service) offerings. Effective wholesale regulation should enable the repeal of retail regulations. In Optus view, the completion of the NBN, the establishment of the SIP framework and the ACCC’s recent acceptance of the NBN SAU, with new benchmark service standards,²⁸ should allow for the retail USO and the CSG Standard to be repealed.

²⁸ [Proposed variation to the NBN Co Special Access Undertaking \(acc.gov.au\)](#); p.70

RESPONSE TO KEY QUESTIONS

1) What do you consider are the key outcomes that a modern universal services framework should deliver?

39. Telecommunications are essential services and “being connected and having access to a reliable and affordable phone and internet service has become crucial for many people to work and connect to education, health and government services.”²⁹
40. The Discussion Paper states that “it is essential that a modern universal service framework delivers telecommunications services that are reliable, robust and able to meet the needs and expectations of consumers, particularly for those in regional and remote areas”.³⁰
41. Optus agrees with the above sentiments and supports the objective of delivering high quality telecommunications services to all Australians. A universal service “framework” can help promote digital inclusion by ensuring affordable access to baseline telecommunications services for all Australians. This is a sound public policy objective in a world in which access to telecommunications has become essential.
42. However, we disagree with the implicit assumption that “universal service” in a modern telecommunications environment will be best facilitated by a formal (regulatory) framework. Regulating the type, features and price of retail services in order that they be “universally” available distorts retail (voice and broadband) telecommunications markets.
43. By definition a “baseline” services that is subsidised in order that it be universally affordable or accessible may not be reproducible in the market. Subsidies, particularly cross-subsidies, can raise barriers to market entry, depriving end-users of the benefits of competition and innovation. This is particularly damaging where the subsidy is from the rest of industry to the incumbent network operator as it dampens investment incentives.

Promote competitive investment for the long-term benefit of regional Australians

44. A key objective of a modern universal service framework should be to avoid harming market competition and private investment. The level of investment in network infrastructure is, among other factors, a function of population density as this will impact the expected rate of return. It is challenging to deliver universal service in a country such as Australia where the costs to supply telecommunications services vary so greatly.
45. It is well understood that the vast distances of remote parts of Australia curtail the business case for commercial infrastructure investment, and increase the costs of providing technical support in the field. In some cases, this will mean that delivering equitable access to telecommunications services may be heavily reliant on Government. However, where new technologies allow for entry into un-served or under-served parts of the market, subsidy arrangements may delay or prevent take-up.
46. Conversely where a USO regime subsidises the delivery of baseline services that are already being delivered by the market this may provide the recipient with an unfair commercial advantage. This can have particularly anti-competitive effects where participants compete in the same market. Where funds are transferred from competitors to the incumbent, incentives to invest are dampened and competition weakened. This in turn limits the range and quality of end-user services, undermining digital inclusion.

²⁹ [ACMA calls on telcos to improve support for customers in hardship | ACMA](#)

³⁰ Discussion Paper, p.1

47. As currently administered, the USO remains an economically inefficient subsidy of out-of-date technologies that ultimately serves to reduce the level of private infrastructure investment in regional and remote areas and entrenches Telstra’s network dominance. Rather than ensure that consumers in non-commercial areas receive modern telecommunications services, the current USO regime enables Telstra to “sweat” its copper assets – to behave as a monopolist. USO reform should be guided by the need to promote competition in previously unserved and underserved areas.

Repeal retail level regulation where it is no longer necessary to deliver universal service

48. Regulation is most effective when it is based on correcting an identified problem and is targeted appropriately to minimise the regulatory burden while ensuring a clear net benefit. Regulations that are disproportionate to a problem create a compliance burden that adds cost a portion of which must be recouped.
49. Government intervention to ensure universal service should be limited to addressing “gaps” in “availability, accessibility or affordability” – most obviously this is where it is or has been proven to be uneconomic for the market to supply services. Conversely, Government should repeal subsidies where the market is or will demonstrate serviceability – funds that subsidise out of date services could be better directed to supporting the early deployment or take up of new technologies (proven to be of sufficient technical quality) or by as a direct subsidy to support vulnerable customers.
50. The SIP regime, along with NBN’s (the default SIP) SAU, provide a robust basis for effective wholesale regulation of fibre-based services. In Optus view, **this should now precipitate removal of outdated retail regulations such as the USO and CSG Standard**. Non-service specific funding schemes directed at supporting an identified cohort of users to access commercially available telecommunications services should be considered.

Take action to reform now – with a clear plan to repeal the USO

51. As Optus has stated on numerous occasions meaningful universal service reform is a crucial pre-requisite to the delivery of broader communications policy objectives for regional and remote Australia.³¹ When \$270 million in funds are ostensibly used to support 300,000 (as of September 2023) decaying copper-based technologies outside the NBN footprint, with little commercial or regulatory incentive on Telstra to replace or upgrade these lines, the scheme is clearly broken.
52. We welcome the open-minded approach that the Department appears to be taking to reform in its Discussion Paper. Such an approach is long overdue, with fundamental reform having been recommended by numerous public inquiry bodies, including from the Productivity Commission and the Australian National Audit Office (ANAO).³² Optus considers that the following findings of the Productivity Commission review remain as, if not more relevant to guiding reform to Australia’s universal service regime today:

Leveraging off the NBN and mobile networks means that the objective of universal service can be reframed to provide baseline (or minimum) broadband and voice services to all premises in Australia once the NBN has concluded its rollout phase, having regard to the accessibility and affordability

³¹ Optus submission; Telstra Carrier licence conditions on regional service information; November 2021

³² Overview Inquiry Report – Telecommunications Universal Service Obligation”; Productivity Commission Inquiry Report No. 83, April 2017 and ANAO Report, *Management of the Contract for Telephone Universal Service Obligations*: ANAO Report No.12 2017–18 respectively

of these services. Increasingly, broadband will be the main medium for voice services.

For the vast majority (more than 99 per cent) of premises, the combination of the NBN and mobile networks is likely to meet or exceed minimum standards for universal service delivery. As such, the TUSO is no longer needed.

Current market trends and policy settings suggest that telecommunications services will continue to be affordable for most people.

*To the extent that there are any remaining availability, accessibility or affordability gaps, current trends and policy settings suggest that these are likely to be small and concentrated. **The TUSO can therefore be terminated once the NBN is fully rolled out and replaced by a set of targeted policy responses for:** – (up to 90 000) premises in pockets of the NBN satellite footprint without adequate mobile coverage – cohorts of users with particular needs [Emphasis added]*

Programs to address these gaps should be flexible, allow for community input and facilitate informed consumer choice. Their costings should be transparent and subject to competitive tendering where feasible. – The narrow scope and small scale of these programs tip the balance towards funding from general government revenue as opposed to an industry levy.³³

Reduce undue financial and administrative burdens on industry

53. Given the inefficiencies of the USO arrangements, and the dwindling need for any “voice safety net” due to the ready availability of substitute services, it is Optus view that the USO regime no longer strikes the right balance between the legislative objects of the Telecommunications Act and further is not consistent with the regulatory policy intention of that Act to “not impose undue financial and administrative burdens on participants in the Australian telecommunications industry”.³⁴
54. In this context, the ANAO made two key recommendations to the Department to promote value for money under the TUSOPA. The first was to utilise the existent “flexibility mechanisms” under the TUSOPA to identify cost savings and to develop options for USO transitional arrangements. The second recommendation related to the quality assurance regime governing Telstra’s performance reporting under TUSOPA. Based on the ANAO report, the Joint Committee of Public Accounts and Audit (JCPAA) Inquiry into Commonwealth procurement also recommended that the Department report:
- “on whether it will be utilising flexibility mechanisms and the additional reporting clause under the Telstra Universal Service Obligation Performance Agreement to bring forward cost savings, as well as access data on the quantity of standard telephone services that Telstra supplies solely on the basis of its universal service obligations and on Telstra’s net cost in terms of supplying standard telephone services and payphones under its universal service obligation.”³⁵*
55. Optus submits that the scope of services mechanism could be enlivened by a Ministerial determination or amendment to section 9 of the Act to remove the payphone related obligations from the USO. In the meantime, and in accordance with the findings of the

³³ Telecommunications Universal Service Obligation; Productivity Commission Inquiry Report; 28 April 2017; p.1

³⁴ Section 3 and 4 of the Telecommunications Act 1997

³⁵ Committee Recommendations 2 and 4; accessible at

https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Public_Accounts_and_Audit/Commonwealth_Procurement/Report_472/section?id=committees%2Freportjnt%2F024140%2F25573

FOI Commissioner in October 2023, the Government should provide transparency as to how and where Telstra is spending TIL funding – without such transparency it is impossible to understand whether USO funding is being allocated cost effectively or not. The Government must demonstrate that the cost of terminating the TUSOPA outweighs the long-term public benefit of promoting a level playing field and potentially redirecting funding to support the adoption of new alternative services in previous USO areas.

What safety-net services does a modern universal services framework need to address?

56. At their essence, universal service arrangements are intended to provide a safety net for Australian consumers – for instance, by imposing an obligation to supply a STS³⁶ in response to a request, the USO provides Australians with assurance that essential telecommunications services of a certain standard are available at any fixed location.
57. For some areas in regional and remote Australia, Telstra’s legacy copper network is this safety-net. The copper continuity obligation under TUSOPA effectively bakes in the need for Telstra to ensure copper services (that were in place outside the planned NBN footprint as at 2012) remain available for use until 2032. However, as the 2021 Regional Telecommunications Review has noted:
- “copper landlines in regional, rural and remote areas are deteriorating and their reliability has been impacted. While voice and broadband services generally experience high levels of availability, low fault rates and are connected and repaired in regulated timeframes, there remains a small cohort of users that experience unacceptable issues in getting their services repaired.”³⁷*
58. As the Discussion Paper notes, “the market, technology and consumer expectations have evolved since voice services were last considered” – in Optus view, this is an understatement. Since the 1999 Act, three national mobile networks have been deployed and mobile services are the preferred method of communication for most Australians. The NBN rollout has been completed and the fixed line network provides access services to around 11.5 million premises nationally. The NBN fixed wireless is being upgraded to supply 100 Mbps services via 5G technology and new satellite services have entered the market.
59. There is no longer any need for the USO safety net of ensuring that STS (and payphones) “are reasonably accessible to all people in Australia on an equitable basis, wherever they reside or carry on business”.³⁸ The copper continuity obligation should not apply in any areas that are serviced by the NBN (i.e given that copper-based voice may still be available to premises served by the NBN fixed wireless network).³⁹ As more satellite services of sufficient capacity and reliability become available, then the Government should repeal the USO in all areas outside the NBN fixed footprint.
60. If it is considered necessary to regulate for a “voice safety net” it should be reframed as an individual right of access to an essential telecommunications service – in terms of performance, the existing SIP regulated minimum of 25/5 Mbps is fit for purpose and should be the baseline regardless of access technology, including satellites. Such a baseline may be regularly reviewed to ensure it reflects consumer expectations.⁴⁰ If a

³⁶ The industry code ACIF C519:2004 End-to-end network performance for the standard telephone service is intended to prescribe minimum levels of performance/basic voice quality metrics for STS supplied over public switched fixed and mobile networks

³⁷ 2021 Regional Telecommunications Review; p.36

³⁸ Section 8; TCCPS Act 1999

³⁹ [Do you rely on your landline for communication? | nbn \(nbnco.com.au\)](https://www.nbnco.com.au)

⁴⁰ ACCC Communications market report; p.15; as a point of comparison Canada mandates 50/[Telecom Regulatory Policy CRTC 2016-496 | CRTC](#)

mandatory safeguard is considered necessary to support vulnerable end-users, such as via priority assistance, then consideration should be given to suitable SIP obligations and/or non-service specific funding schemes directed at supporting an identified cohort of users to access suitable commercially available telecommunications services.

Trials of alternative services should support competition

61. The 2022 RTIRC has recommended that while a technology agnostic approach to USO service delivery is appropriate, any alternative service technologies should “exceed the existing reliability standards of the current solution. This should require the inclusion of backup power and stringent minimum availability and voice quality standards which are enforceable through significant penalties on the USO provider. New solutions must also be affordable for regional users”.⁴¹
62. Optus recognise that to be accepted as a replacement USO service, new solutions will need to deliver as good or better performance than existing offerings. However, we submit that the Government should not focus its technical trial of alternative services only on a few operators but rather make a holistic appraisal of what satellite services, including GEO satellites, are suitable as a platform for voice service delivery. As the RTIRC also notes, “in regional, rural and remote areas, it is critical to have a working service in what are sometimes life-or-death situations. To ensure this, many consumers have multiple telecommunications services to provide redundancy when it is most needed, even at considerable additional expense to themselves.”⁴²
63. Competition should drive retail prices down. A rigid approach to alternative services trials runs the risk of foreclosing new entry from services that may not otherwise meet the stringent service assurance thresholds (of the CSG Standard for instance). There are multiple satellite service offerings entering the market and a USO trial, if not designed sufficiently flexibly, may serve to embed prevailing regional market structures for the long term. Picking “USO winners” due to narrow trial parameters may mean that affordability remains a challenge and direct subsidies a permanent fixture of the market.
64. Optus urges the Government to maintain the momentum of the LEOSat working group and adopt a holistic “eco-system of systems” approach to USO reform. In combination, satellite systems at various distances from the earth can offer multiple layers of network assurance and redundancy, complementing terrestrial mobile networks and delivering backhaul services for improved service delivery to regional and remote communities.

Existing regulations provide a baseline safety net for the supply of alternative services

65. In Optus view, competition should be the overarching driver of improved customer service given that consumers increasingly differentiate on the basis of customer service and support. If a consumer is unsatisfied with the customer service of their existing provider, then existing portability arrangements make it easy to churn to a new provider.
66. Existing consumer protection laws have been extensively uplifted since the inception of the USO and the Australian Consumer Law, and sector specific protections such as the Telecommunications Consumer Protection Code provide a sufficient safety net in a modern telecommunications environment.
67. Over NBN fibre, the wholesale relationship determines the response time for anything more than a fault that can be addressed remotely. Regulated wholesale service levels set out in the SAU or existing sector specific consumer regulations may perform the role

⁴¹ RTIRC report, p.6

⁴² RTIRC Report; p.38

of baseline service levels requirements, though this may benefit from sector specific enhancements to ensure that the party responsible for service assurance is accountable.

68. The *Telecommunications Legislation Amendment (Enhancing Consumer Safeguards and Other Measures) Bill 2023*⁴³ would amend the SIP regime to enhance consumer safeguards to “*deliver greater certainty to customers where their current SIP chooses to stop offering services*”.⁴⁴ In terms of outages, migration off copper will create greater risk from loss of power, given that copper lines remain powered from the exchange. While the market does offer battery backup solutions, the need for mandatory requirements should be considered as part of the Departments proposed consultation on safeguards.
- (a) Optus recognise the importance of ensuring that any future voice service supplied over satellite must be of sufficient reliability and performance to deliver the emergency call service.⁴⁵ The extent of relevant regulatory considerations will depend on the satellite service configuration and whether the satellite operator is supplying STS to Australian end-users. In general, the solution should be designed to co-exist with licensed radiocommunications and avoid adverse interference to emergency calls handles by other (terrestrial and non-terrestrial) networks.

To what extent do you consider mobile services are important to complement fixed services supported under the existing framework?

69. Telstra’s statutory USO is technology neutral and therefore, while it is traditionally met via the supply of a fixed line telephone service, Telstra may choose to supply “public mobile telecommunications services” or “satellite services” in fulfilment of the USO. In such cases, the services will be subject to the CSG Standard.⁴⁶
70. Mobile services are Australians preferred method communication. Competitive mobile networks service 98.5% of the Australian population. In areas of mobile coverage, mobile services are the default fall-back option when there is a fixed network outage. In this way mobile services complement fixed line services.
71. While there will be variations in the quality of mobile services available, the availability of a mobile network capable of delivering a voice service should be a factor in determining where the USO may be repealed now and during the transition period.
72. **For clarity, there should not be a “mobile USO”** – in addition to being highly expensive to deliver, a mobile USO will only serve to entrench Telstra’s regional dominance over the long term, and potentially undermine the entry of innovative solutions such as Optus/SpaceX LEO Sat direct to mobile services.⁴⁷
73. **[CIC]**

Addressing Telstra’s legacy network advantages will help promote regional mobile competition

74. The ACCC has observed that “mobile network operators will invest in expanding their mobile coverage where they believe it will lead to gaining or maintaining market share in the national mobile market, or they otherwise consider they will generate sufficient

⁴³ https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r7116

⁴⁴ <https://minister.infrastructure.gov.au/rowland/media-release/new-telco-consumer-safeguards-bill-introduced-parliament>

⁴⁵ In accordance with regulatory requirements governing the emergency call service, such as section 19 and 21 of the Emergency Call Services Determination 2019

⁴⁶ Section 4 of the CSG Standard; see also [Telstra - Universal Service Obligation \(USO\) - Customer Service](#)

⁴⁷ Optus | SpaceX

revenue to cover the cost of the new site. Telstra's enduring competitive advantage, in that its mobile coverage is unlikely to be matched by others, reduces the incentive for others to expand their mobile networks."⁴⁸

75. To date competition has largely driven investment in networks and services. However, in Optus view, the competitive dynamics of the sector appear to be at a tipping point with Telstra's legacy network advantages, particularly in relation to geographic coverage, enabling Telstra to increasingly differentiate itself in the market on the basis of coverage and performance. This has led to the establishment of "pockets of market power" within the national mobile market, particularly outside metropolitan areas and regions in which Telstra faces less competitive constraints.⁴⁹
76. Telstra is the dominant mobile provider with a national mobile market share of 51%. This dominance is even more pronounced in regional Australia, with Telstra commanding close to 70% market share, giving it an unparalleled level of dominance and scale in Australia. Telstra retains over 50% share of the approx. 6.5 million fixed voice SIOs market.⁵⁰
77. Telstra's legacy network continues to afford it an unfair advantage in that it has no real incentive to share its network outside of the competitive footprint.⁵¹ Additionally, the remaining vertical integration between Telstra and Amptel, which has the largest portfolio of towers across Australia, and owns most towers in outer regional, rural and remote Australia, limits fair access to tower infrastructure.⁵²
78. TIL funding subsidises Telstra's supply of services in otherwise non-commercial areas, entrenching its relationship with end-users. Promoting competition in these regions is vital to digital inclusion goals given that without competition, Telstra is under no real pressure to invest in its network to upgrade its services to regional and remote Australia. Optus consider that removal of the non-Telstra TIL arrangements will have a direct benefit of encouraging greater investment in competitive networks and services.

Which existing requirements under the current universal services framework should be retained, or changed?

79. The "completion" of the NBN rollout should have been the final milestone to trigger the repeal of the USO.⁵³ Fixed wireless services outside the fibre footprint, NBN and from MNOs, provide USO should not apply within the NBN fixed line, including fixed wireless footprint.
80. Yet NBN "recommend homes and businesses are always prepared to be without landline phone and internet services for a period of time" advising customers to "consider keeping your copper service active in the nbn Fixed Wireless and Sky Muster satellite areas if you rely on landline phones in emergency situations".⁵⁴ This is of course sensible advice, particularly to ensure any risks with migrating special services such as medical, fire and security alarms are properly mitigated. That said, we note that a power outage on the NBN fixed line network would not be similarly supported.

⁴⁸ ACCC Communications market report; p.x

⁴⁹ Optus submission in response to ACCC market inquiry – Telstra and TPG application for merger authorisation for proposed spectrum sharing in regional Australia; June 2022; para 3.27; p.21

⁵⁰ ACCC Communications market report 2022-23; p.25

⁵¹ ACCC Regional Mobile Infrastructure Inquiry Report; June 2023 p.87

⁵² ACCC Communications market report; p.11

⁵³ PC Report; p.1

⁵⁴ [Do you rely on your landline for communication? | nbn \(nbnco.com.au\)](https://www.nbnco.com.au)

81. The features of the STS are expansive – many are either redundant due to technological change or are better addressed by other existing mechanisms.⁵⁵ Optus maintains that the USO should eventually be repealed with the supply of services left to the market to the greatest extent practicable. However, Optus recognise that there will need to be careful consideration of how to ensure continuity of service for affected end-users, and in particular vulnerable customers.
82. New consumer protection regulations should deliver on requirements such as “itemised billing” or “calling line identification” while other regulations for example those relating to the provision of the emergency call service or interception requirements, should be reviewed to ensure they are fit for purpose.
83. The CSG Standard, which specifies timeframes for the connection and repair of STS, is a blunt mechanism to penalise service providers for failing to meet arbitrary timeframes for connection, fault rectification and appointment keeping. Introduced in 1997, the CSG Standard is inconsistent with a modern telecommunications environment and has been overtaken by the overwhelming reliance of end-users on VoIP services and broadband connectivity.⁵⁶ The CSG Standard should be repealed.

What role do you consider payphones should play in a modern universal services framework?

84. Optus has previously provided its views on the role of USO payphones, most recently in response to the Government’s February 2022 consultation “Review of sunseting payphone instruments”.
85. In summary Optus considers that the payphone component of the USO should be removed immediately. The use of payphones is in terminal decline, and notwithstanding an uptick in usage following Telstra’s August 2021 announcement of free national calls, the vast majority of the 14,500 remaining payphones are largely irrelevant to Australians.⁵⁷ Yet Telstra still receives \$40 million under the TIL towards payphones and gains the reputational benefit of declaring free wifi and national calls.
86. While there are rural and remote communities where payphones may remain important, the rapid deployment of next generation mobile networks and new technologies capable of supplying adequate voice and data services means that these areas may also be adequately served in the near term. As the Department’s USG report observes “in the case of payphones, the most noteworthy trend has been their apparent displacement by mass take up of mobile phones. There is no longer a case to be made for retaining payphones in areas that are adequately served by mobile services.

⁵⁵ The features and consequential obligations of universal service provision of the STS include: customer service guarantees (CSGs); free emergency services access; operator assisted services; directory assistance services; pre-selection capability; itemised billing; calling line identification; number portability; membership of the telecommunications industry ombudsman (TIO); priority assistance; the option of untimed local calls; suitable equipment for customers with disabilities; interception capability [Telstra - Universal Service Obligation \(USO\) - Customer Service](#)

⁵⁶ Thematic review of the CSG; ACCC submission; March 2023; p. 4

<https://www.infrastructure.gov.au/sites/default/files/documents/csg-thematic-review--accc-submission.pdf>

⁵⁷ The Department’s 2020 market research found that: (i) consumers generally prefer mobile for voice; (ii) payphone usage is generally very low; (iii) most people use payphones only rarely and for ad hoc reasons—and have access to mobiles; (iv) homeless people rely on payphones to a greater degree than the broader community but have high mobile use as well; (v) there was no clear payphone preference by helpline users; (vi) victims of family and domestic violence may use payphones but generally have and prefer to use mobiles, and; (vii) most payphone use

87. Optus submits that the regulatory framework must be amended to enable the rapid removal of payphones in any area outside of specified locations where a payphone may have greatest utility such as areas outside mobile coverage; remote indigenous communities; and; areas of greatest socio-economic disadvantage. There is no need for any new payphones and certainly none funded by non-Telstra industry.

How should affordability be considered?

88. Affordability is a crucial element of equitable access to essential services. In Optus view, a competitive, commercial market should be able to deliver affordable services for most people. There will of course be financially vulnerably customers that will need to be supported. Optus has already embedded internal processes to support financially vulnerable customers in line with the new Financial Hardship Standard.⁵⁸

89. As the Discussion Paper notes, “competition drives prices down”. As a reference point, the prices of entry level plans in the market and the relevant levels of take up should provide guidance as to whether services are “affordable”. The latest ACCC Communications Market report indicates that prices for entry level mobile services are very competitive with services provided via other access technologies.

| NBN fixed broadband | | | |
|---------------------|-------------------|-----------------|------------------|
| Download speed | Entry-level price | Mid-range price | High-range price |
| 12 Mbps | \$60 ▲3.3% | \$65 ▲8.3% | \$75 ▲13.6% |
| 25 Mbps | \$65 ▲0.4% | \$70 _flat | \$79 ▲5.9% |
| 50 Mbps | \$75 ▲7.1% | \$80 ▲1.3% | \$85 ▼4.5% |
| 100 Mbps | \$95 ▲5.5% | \$100 _flat | \$110 ▲0.9% |

| Non-NBN fixed broadband | | | |
|--|-------------------|-----------------|------------------|
| Download speed | Entry-level price | Mid-range price | High-range price |
| Plans between 10 Mbps to 50 Mbps | \$65 _flat | \$70 ▼6.7% | \$80 _flat |
| Plans greater than 50 Mbps to 100 Mbps | \$75 ▲7.2% | \$90 ▲12.5% | \$110 ▲10.1% |

| Mobile phone | | | |
|--------------------------------------|-------------------|-----------------|------------------|
| Brand | Entry-level price | Mid-range price | High-range price |
| Mobile network operator – flagship | \$40 _flat | \$58 ▲5.5% | \$68 ▼2.9% |
| Mobile network operator – sub-brands | \$20 _flat | \$31 ▲3.3% | \$40 _flat |
| Mobile virtual network operator | \$20 _flat | \$30 _flat | \$40 ▼11.1% |

| Mobile broadband | | | |
|------------------|-------------------|-----------------|------------------|
| Plan | Entry-level price | Mid-range price | High-range price |
| All sampled | \$20 _flat | \$35 _flat | \$50 _flat |

90. Effective wholesale regulation of fixed line services will ensure that retail competition delivers competitive pricing. As the Discussion Paper also notes NBN Co’s SAU “will introduce long-term pricing commitments that will provide greater price stability, keeping prices in line with inflation and protecting consumers from unexpected sharp price hikes.”⁵⁹ The NBN Co SAU also establishes a forum to promote the interests of low income and disadvantaged customers and allow these interests to be considered in NBN pricing and products. NBN has also introduced a new basic voice and data usage

⁵⁸ the Telecommunications (Financial Hardship) Industry Standard 2024

⁵⁹ Discussion Paper, p.12

service at around half the price of NBN Co's existing entry-level broadband offer (reduced in price from \$22.50 to \$12 per month).⁶⁰

91. In Optus view, further regulation of service pricing is unnecessary, particularly in areas with competitive commercial service offerings – which is the entire NBN fixed line and fixed wireless footprint. This is because of more robust arrangements to regulate wholesale since the ACCC's acceptance of the SAU variation; and the fact that a competitive retail market can deliver end users a choice of retail offerings (e.g. ACCC retail price controls were removed ten years ago as market forces kept prices below controlled levels). Separate, targeted Government programs could support those most in need of assistance on the affordability of services.

How can a modern universal services framework deliver better outcomes and meet digital inclusion needs of First Nations Australians?

92. Digital Inclusion and Closing the Gap for First Nations people via Target 17 are key policy objectives of the Government.⁶¹ Delivering affordable connectivity to remote Indigenous communities of a quality sufficient to enable First Nations people to effectively participate in the Digital economy is one of the greatest challenges of universal service policy. Optus provides mobile services to 98.5 percent of the
93. During the LEO Sat working group, the First National Digital Inclusion Advisory Group (FNDIAG) tabled an Initial Report which provided an initial set of recommendations to improve access, affordability and digital ability for First Nations people. These included:
- (a) Investing in infrastructure so all communities have equal access;
 - (b) Ensuring that First Nations people are able to afford reliable internet services whether fixed line, satellite or mobile;
 - (c) Supporting all First Nations people to have the skills to access the internet safely and effectively.⁶²
94. To this end the report also recommends “delivering targeted or tailored measures to improve access to connectivity across a wide range of communities” and considered that USO and LEO Sat issues required further detailed consideration.⁶³ Optus welcomes this report and agrees with the general recommendation that targeted measures will be most effective at bridging the gap and meeting Target 17.
95. In Optus view it is clear that service provision to remote communities is best delivered by wireless technologies, both mobile and satellite. A “system of systems” approach to the problem, which maximises the utility of existing terrestrial and space-based communications systems to deliver services to remote communities can help to start bridge this gap now. Key to this objective though will be to avoid picking technology winners – such as is a potential risk through the proposed alternative services trials. Rather, Government should direct its efforts at building awareness and understanding in First Nations communities about existing options and assist with onboarding to those services.

⁶⁰ ACCC Communications Market report; 2022-23, p.18

⁶¹ [7B. Table B: Outcome 17 | Closing the Gap](#)

⁶² [first-nations-digital-inclusion-advisory-group-initial-report.pdf \(digitalinclusion.gov.au\)](#); p.3

⁶³ Ibid, p.4