

# **Submission in response to Consultation Paper – Department of Infrastructure, Transport, Regional Development and Communications**

## **Review of Instruments under Part 20A of the *Telecommunications Act 1997***

Public Version

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## INTRODUCTION

Uniti welcomes this opportunity to provide its view on the need to continue or modify exemptions from statutory requirements to install fibre-ready facilities, particularly, but not solely, underground pit and pipe.

The numbering of our response corresponds to the numbering of the consolidated list of questions.

1. Do the matters covered by the 2011 Instrument remain important and need to continue? Are refinements needed? Are the matters better dealt with in Part 20A, in subordinate legislation, or a combination.

The 2011 Instrument remains relevant and should continue while copper-based and HFC networks exist. We have no comment in respect of possible refinements. These matters should remain in the 2011 instrument and phased out as the network is eventually replaced by fibre.

2. Do the matters covered by the 2021 Instrument remain important and need to continue? Are refinements needed? Are the matters better dealt with in Part 20A, in subordinate legislation, or a combination.

The objective of the 2021 Instrument, to exempt developments that are unlikely to be serviced by fixed-line in the foreseeable future, is increasingly less relevant as the benefits of fibre-ready developments far outweigh the costs of the build, except in very limited circumstances. It is increasingly likely public and private investment will extend FTTP networks into regional markets. We are of the view that the exceptions should be phased out over the near term.

In rural and remote areas (as opposed to regional areas) with larger rural type block developments, we support the continuation of the exemptions as outlined in the paper, namely pit and pipe for fibre is not warranted in the cases where no underground network utilities will be installed in proximity to the building lots (ie: no common utility trenches)

3. Is the process by which developers claim exemptions appropriate? Can it be improved? If so, how?

No comment

4. Should pit and pipe exemptions generally remain available in rural and remote areas where the provision of fixed lines is unlikely for the foreseeable future? If so, do the exemption criteria need to be refined and, if so, how? For example, are the utility, frontage and kerb channeling requirements valid and appropriately worded?

Uniti is of the view that all exemptions should be removed as this would allow all premises to be serviced by fibre in the long term. Even if fibre is not installed immediately, if a development has any underground services (eg: gas, electricity,

water, etc), then the presence of pit and pipe access to buildings in common utility trenches will enable future connection without additional cost to consumers. All developments should construct pit and pipe to allow deployment of FTTP networks either immediately or some time in the future especially if other underground services are being constructed.

Where a developer engages a carrier to build and operate a fibre network in a development, then the carrier must be responsible for local infrastructure at the development location as well as all obligations in the distribution and core of the telecommunications network. This includes the accountabilities associated with operating open access wholesale Points of Interconnect (POIs) where any Residential Service Provider (RSP) can onboard and purchase retail services from the wholesaler and conduct all operations as an open-access wholesale access network provider in compliance with the Telecommunications Act, in particular, the carrier separation and non-discrimination rules.

5. Should the willingness of NBN Co or any entity to take ownership for pit and pipe in a rural and remote area be a criterion in considering whether an exemption to install pit and pipe be granted? What proof should be required that a developer has contacted NBN Co or another appropriate entity?

The willingness of NBN Co or any other carrier to take ownership for pit and pipe in a rural and remote area should not be a criterion for allowing an exemption. As noted, the cost of installing pit and pipe is modest relative to the overall cost of development and Uniti is of the view that the Department should refuse all exemptions. Failure to build pit and pipe in seemingly remote areas may negate against investment outside urban areas. Encouraging building of fibre-ready pit and pipe infrastructure will generally have little impact on the cost of housing in any market, however, the advantages to the consumer are significant in that they will gain access to high-quality, high-speed fibre either immediately or sometime in the future.

6. What role, if any, should local governments play in setting telecommunications requirements in their jurisdictions and the grant of exemptions? What should happen if there are differences between Commonwealth policy and local government requirements, noting Commonwealth law would prevail over inconsistent local requirements? Should Commonwealth policy generally apply? Do Commonwealth requirements need to be clearer in this regard?

Uniti is of the view that local government should have no role in setting telecommunications requirements. Commonwealth policy should continue to prevail over inconsistent local requirements. The current framework leads to inconsistencies between the various LGA's independent policies (issued through

“Statements of Compliance”) as well as with both State and Commonwealth policies. These consistencies can result in a negative impact on the quality of infrastructure and technology that is able to be delivered to end users.

7. Should exemptions from pit and pipe installation not be available where a development is within 1,000 metres of the NBN fixed-line network? Should countervailing factors still apply (e.g. the development is adjacent but blocks are still 10 ha each, or a carrier is not prepared to take ownership for the pit and pipe)?

The installation of pit and pipe in developments that are adjacent to the NBN Co fixed line footprint should take precedence over any cost effectiveness consideration. As previously noted, the cost of fibre-ready pit and pipe infrastructure is minor relative to the cost of the development, and when taking into account the inefficiencies associated with retrofitting pit and pipe after completion, the presumption should be that a pit and pipe installation is to be built, and is dwarfed by the advantages to the consumer of access to fixed line telecommunication services.

There should be no exemption, and countervailing factors should not apply, even if no carrier is willing to take on the ongoing responsibility for pit and pipe at the time of build.

Fibre ready pit and pipe should be built at all times alongside other utilities enabling the supply of FTTP services immediately or sometime in the future.

8. Should exemptions from pit and pipe installation not be available where a development is in a strategic growth corridor or similar? If so, how should such areas be identified? Should countervailing factors still apply (e.g. the development is adjacent but blocks are still 10 ha each, or a carrier is not prepared to take ownership for the pit and pipe)?

Uniti is of the view that the exemption should not be available where a development is in a strategic growth corridor (as determined by State, Territory and local governments). Accordingly, developers should be required to approach NBN Co and other operators to determine whether or not they are prepared to take ownership of pit and pipe at the planning stage of the development, and the 2021 Instrument should be amended to require a developer to approach a carrier for developments in a strategic growth corridor which would otherwise fall within the exemptions.

The exemption should not apply even if no carrier is prepared to take ownership for the pit and pipe. As above, pit and pipe should be constructed in all instances.

9. Are there other circumstances that need to be considered in terms of exemptions being available or not available? If so, what are they, how should they be handled?

None

10. Should some or all of the matters in the two instruments be moved into statute? Are there particular issues best suited to statute, or to legislative instruments?

We believe that the exemptions should remain in their current form in separate Instruments.