Funding of universal telecommunications services discussion paper

Executive Summary

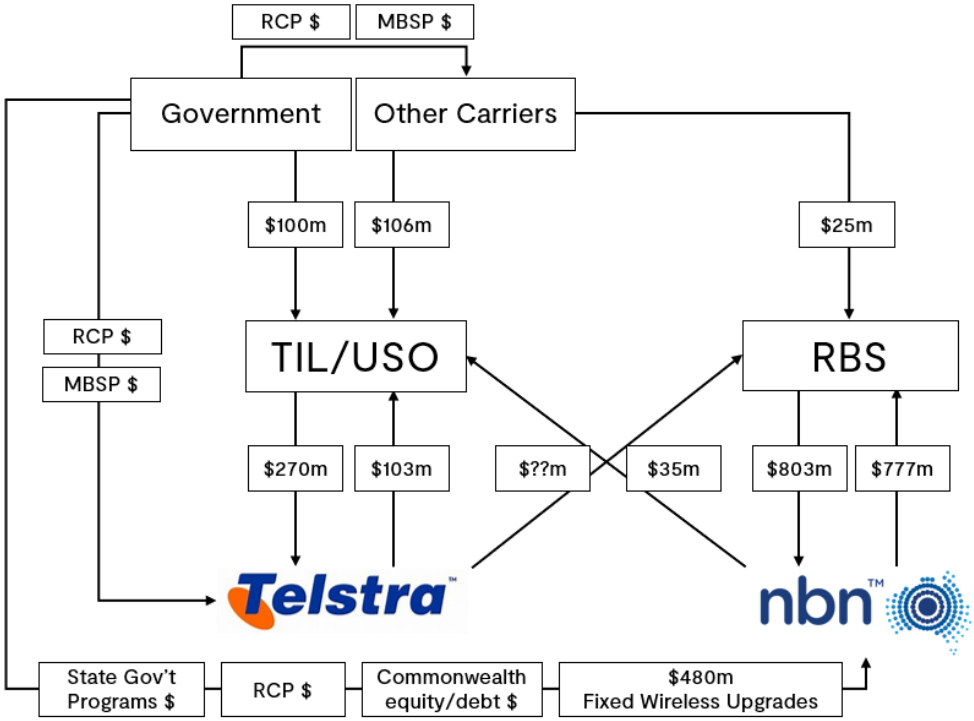
'The starting position for consultation is the continued operation of current arrangements', the discussion paper states – Vocus submits that this is the worst possible position to start from, as the current arrangements are universally considered to be a mess. A better starting position would be: 'What is the policy problem we are trying to solve, and how do we fund the solution?'

The Universal Service Obligation (USO) and the Regional Broadband Scheme (RBS), combined with the Mobile Black Spot Program (MBSP) and Regional Connectivity Program (RBS) have created duplicative programs funding duplicative technologies serving the same cohort of end-users at a total cost of more than $1 billion a year.

The policy foundation for the RBS – that NBN's regional networks are loss-making and require cross-subsidies until 2040 – is no longer valid. Since the inception of the RBS, NBN has received hundreds of millions of dollars in additional Government funding to expand and upgrade its fixed-line network, expand and upgrade its fixed wireless network, and reduce its satellite footprint (enabling it to offer improved services to a smaller group of users). The financial basis used to calculate the RBS levy has been superseded by ongoing Government capital contributions to NBN's networks – the degree to which they are 'loss-making' is unknowable and unaccounted for.

The RBS, like the USO, forces NBN's competitors to subsidise an inferior technology (Sky Muster) while superior competitive alternatives (LEO Satellites) receive no subsidy at all.

The solution is not to reform the RBS, but to abolish it – and instead establish a targeted funding program exclusively for premises that lack access to competitive, commercially-available voice and broadband services.



2023 funding arrangements for TIL (USO STS + Payphones), RBS, MBSP, RCP
Sources: ACMA TIL Assessment, ACMA RBS Charge Assessment

Response to questions

Key principles and characteristics of a sustainable long-term funding model

Certainty

- What characteristics would ensure adequate certainty to providers delivering funded services?
- What characteristics would provide adequate certainty to those parties from whom funds would be collected?

The discussion paper states: 'The high per capita cost of telecommunications deployment outside large urban areas has required financial support to ensure that Telstra and NBN Co can provide voice and broadband services on an ongoing basis to areas where this would otherwise not have been commercially viable.'

This statement was true when the USO and RBS were established – but it is no longer the case. For the first time in history, we now have a commercial technology providing metro-equivalent voice and broadband services to 100% of the Australian landmass – LEO satellites (Starlink).

No future funding arrangements should be predicated on the false foundation that regional services are not commercially viable, as LEO services are available to 100% of regional and remote premises today – with no Government subsidy.

The questions above are based on the outdated premise that universal service providers require certainty of taxpayer or industry subsidies to deliver services. With the arrival of universally-available commercial LEO services, and following the completion of the NBN rollout to 100% of premises, it would be more appropriate to ask: 'given voice and broadband services are now commercially available to 100% of premises, are any taxpayer or industry subsidies required at all?'.

Flexibility

- How can the funding arrangements best support provision of non-commercial services but also support flexibility in adapting to market changes and the types of services supported?

The premise of this question is flawed – it is based on the presupposition that services in regional and remote areas are 'non-commercial', while in reality, commercial and unsubsidised services are available to 100% of premises via Starlink, 99.5% of premises via Telstra's mobile network, and to 98.4% of premises via Optus' mobile network (also TPG's, pending approval of MOCN arrangements). Additionally, 100% of premises are also served via the subsidised NBN.

As is detailed in the following section, rather than a specific subsidy program exclusively for NBN's 'non-commercial' services (i.e. the RBS), future funding arrangements should establish a targeted program exclusively for premises that lack access to competitive, commercially-available voice and broadband services.

Existing RBS arrangements fund all of NBN's Fixed Wireless and Satellite networks on the outdated and inaccurate premise that they are all 'non-commercial'. As the discussion paper correctly notes, 'There is no set border for where commerciality begins or ends.'

The policy foundation for the RBS – that NBN's regional networks are loss-making and require cross-subsidies until 2040 – is no longer valid. Since the inception of the RBS, NBN has received hundreds of millions of dollars in additional Government funding to expand and upgrade its fixed-line network, expand and upgrade its fixed wireless network, and reduce its satellite footprint (enabling it to offer improved services to a smaller group of users). The financial basis used to calculate the RBS levy has been superseded by ongoing Government capital contributions to NBN's networks – the degree to which they are 'loss-making' is unknowable and unaccounted for.

Services that should be subsidised

- How should arrangements ensure affordable services will be available across Australia but not crowd out investment by commercial operations?
- What are the characteristics of services that should be receiving subsidies? How should these be determined on an ongoing basis?
- Is it appropriate to still consider entire networks when determining funding support or should the evaluation of commerciality occur at a more granular level?
- There is ongoing interest in network resilience particularly in relation to service availability after natural disasters. Is this something that should be supported through funding for non-commercial services or should all network providers be equally required to provide a specified level of resilience in their own networks?

Fund people, not programs.

In recognition of the fact that services are available to 100% of premises via Starlink and NBN, 99.5% of premises via Telstra's mobile network, and to 98.4% of premises via Optus' mobile network (also TPG's, pending approval of MOCN arrangements); consumers are best placed to choose the level of service they require at a price point that meets their needs.

With services now available to 100% of premises via two network operators, what is a universal service framework seeking to deliver? If it is decided that a future universal service framework should include an 'affordability' measure, then any subsidies should allow consumers to choose from the competitive options available.

If affordability is to be included in the framework, the first issue to be addressed is eligibility. Who should be eligible for any form of subsidy, given commercial services are available to 100% of premises? Eligibility requirements should focus any subsidies exclusively on areas of market failure. If a premise has coverage from only one commercial operator (i.e. Starlink) and the Government-owned NBN, there is an argument that this premise is not 'competitively served' as it only has one commercial option other than the NBN. However, if a premise has access to Starlink, Sky Muster, and at least one mobile network, then the premises could be considered 'competitively served' as it has access to two commercial options and the NBN. If a premise has access to Starlink, NBN, and two mobile networks, it is undoubtedly competitively served – and therefore should not be eligible for any subsidised service. Any premise with NBN fixed wireless available should not be eligible for any form of subsidy, given the significant Government investment in this technology and overlaps with commercial mobile and LEO coverage.

Pending the Government's decision on eligibility, any affordability program would be best enabled via a 'voucher' scheme where a set subsidy amount is either available directly to consumers, or equally to all available service providers – so consumers benefit from the subsidy regardless of their choice.

The best way to ensure affordable services are available without crowding-out investment by commercial operations is to ensure any subsidy program gives consumers choice – recognising that competitive options are available. The evaluation of commerciality should occur at the most granular level – the consumer's choice, rather than the Government's edict, of the right service at a price that meets their needs.

A voucher-style subsidy program – whether it is applied to the consumer or to the service provider – would enable consumers to decide how much they are willing to pay towards their chosen service. Regardless of which party the subsidy is applied to, the framework would be required to determine the subsidy amount available.

For example, a voucher program might hypothetically contribute $50 per month towards the cost of a service for an eligible recipient. Consumers seeking a premium voice and high-speed

broadband service may choose to put their $50 subsidy towards a $139 Starlink service, and pay the $89 'gap' out of their own pocket. Consumers seeking a basic broadband service may choose to put their voucher towards a $59 Sky Muster service, and only pay a $9 gap. Consumers with mobile coverage at home may choose to put their voucher towards a Telstra mobile service with 50GB of data and unlimited voice for $62, paying a $12 gap.

This approach would ensure that a future universal service framework is contestable by enabling end-user choice, rather than forcing a government-mandated technology type on users (as the current USO and RBS arrangements do).

Notably, the current USO arrangements provide Telstra with $230 million annually to provide the STS to 285,000 premises – which equates to a monthly subsidy of approximately $67 per premise[1]. This arrangement also denies consumers a choice of service, despite commercial options being available to many of the premises served by the USO.

On the question of network availability and resilience, again this issue is addressed by the availability of multiple service providers to the overwhelming majority of premises. 100% of premises have access to both Starlink and the NBN, so if consumers are willing to pay for a backup service, they have the option to do so. For the 99.5% of premises with Telstra mobile coverage, they also have the choice of mobile as a backup (or primary) service.

The concept of requiring providers to have a specified level of 'resilience' in their networks overlooks the competitive nature of the market, in which all network providers seek to have maximum network uptime and minimum network disruptions in order to win and maintain customers. Mandating a level of 'resilience' as a requirement for access to subsidies is unlikely to improve network resilience to a greater degree than a competitive market, which already incentivises providers to maximise network availability.

Contributors to funding

- Which elements of the telecommunications industry should be contributing to non-commercial services? This can include commentary on those entities that should be considered part of the telecommunications industry.
- Should funding for non-commercial services provided to individuals be collected from different contributors than should provide funding for other types of public interest services such as Emergency Calls?

These questions are based on the assumption that industry should be required to fund non-commercial services. Why? Rather than asking which industry participants should be required to contribute, we should instead ask why industry should be forced to financially contribute to the realisation of the Government's policy objectives when industry itself already invests substantial amounts in regional networks.

If universal access to affordable telecommunications services is the Government's desired policy outcome, then any future funding programs should be funded via the Commonwealth's consolidated revenues (the Budget) rather than any industry levy.

The questions are also built on the assumption that regional services are inherently non-commercial, and therefore must be publicly funded or subsidised to ensure their supply. As has been noted earlier in this repose, that assumption is no longer true.

The current RBS arrangements – where the levy is applied only to operators of fibre networks in specific circumstances – is distortionary in that it disincentivises competitive fibre investment, even though alternative technologies can provide the same service levels yet are not subject to the levy. Despite this, the best way to reform the RBS is not to broaden the levy base, but to

[1] Communications Day, 'USO copper lines now subsidised $800 each per year as Telstra argues for wireless, satellite reset' by Grahame Lynch 8/5/24

abolish the RBS altogether in preference for more equitable, technology-neutral universal service funding arrangements targeted exclusively to areas of market failure.

Competition issues

- Are there any particular competition issues that need to be considered? How can the design of funding arrangements promote competition and contestability?

See response to previous section 'Services that should be subsidised'.

Thresholds

- Should there be any threshold on the requirement to make contributions and if so what kind of methodology would be suitable for determining the threshold?

This question is again built on the assumption that industry should be required to contribute towards the funding of non-commercial services. Rather than asking what the right threshold for contributions is, we should instead ask why industry should be forced to financially contribute to the realisation of the Government's policy objectives – which would be more appropriately funded via the Commonwealth Budget.

Administrative characteristics of funding arrangements

- Are there any characteristics that would provide additional efficiency or ease of administration for the contributors and the administrators of universal service funding?

Of the two existing universal service levies, the TIL is the 'least-worst' in that it has a lower administrative burden than the RBS. Calculating an operator's RBS liability is a complicated technical process given the number of variables involved which require the establishment of new internal processes to accurately ascertain. Any future funding arrangements should be as simple as possible to minimise administrative burden.

General questions on key principles and characteristics

- Do you agree with the positions set out above with respect to key principles and characteristics of future funding arrangements?
- Are there any principles or characteristics that should be added to the above list?
- Are there are other issues or considerations the Government should take account of in considering the effectiveness of funding arrangements for universal telecommunications services?
- Are there any particular funding models you think the Government should consider?

The most glaring omission from the list of principles is 'eligibility'.

While this characteristic is partially canvassed in the 'services which should be subsidised' category, arguably the single most important consideration in any future universal service framework is 'who should be eligible for a subsidised service?'.

Given that 100% of premises in Australia now have access to at least two providers via NBN and Starlink; 99.5% of premises also have access to at least one mobile network, and 98.4% of premises also have access to a second mobile network, any subsidised service should only be available to premises where commercial, competitive services are not already available.

Today, the USO (and TUSOPA contact) support the provision of copper-based Standard Telephone Services even to premises that have access to mobile coverage, NBN fixed wireless, Starlink, and/or others (i.e. private fixed wireless networks). Why should any subsidised service be provided to premises that have a range of commercial options available at a range of price points to meet their needs?

The eligibility principle should focus any future universal service subsidies exclusively on areas of market failure. If a premise has coverage from only one commercial operator (i.e. Starlink)

and the Government-owned NBN Sky Muster, there is an argument that this premise is not 'competitively served'. However, if a premise has access to Starlink, Sky Muster, and at least one mobile network, then the premises could be considered 'competitively served' and therefore ineligible for any subsidised service.

There is no case for any taxpayer subsidies to premises where the market has already provided coverage and competition.

Regional Broadband Scheme review questions

Substitutability (charge base)

- Based on current market conditions, which participants in the telecommunications industry should be contributing towards the net losses of NBN Co's non-commercial fixed wireless and satellite services?

The charge base applying to 'operators of high-speed fixed-line broadband access networks capable of delivering download speeds of at least 25 megabits per second (Mbps)' is anachronistic, given that 4G and 5G wireless networks both exceed this minimum speed and are clearly substitutable for NBN fibre connections.

Despite the fact that wireless connections are substitutable and therefore should arguably be included in the charge base, the preferable option to broadening the charge base would be to abolish it entirely.

As stated earlier in this response, the policy foundation for the RBS – that NBN's regional networks are non-commercial and require cross-subsidies until 2040 – is no longer valid. Since the inception of the RBS, NBN has received hundreds of millions of dollars in additional Government funding to expand and upgrade its fixed-line network, expand and upgrade its fixed wireless network, and reduce its satellite footprint (enabling it to offer improved services to a smaller cohort of users).

The financial modelling used as a basis for the RBS levy has been superseded by ongoing Government capital contributions to NBN's regional networks – to the point that they may not even be loss-making anymore.

Any reassessment of the charge base should be accompanied by a reassessment of NBN's so-called 'non-commercial' network liabilities, given the original figures used to determine the RBS levy are out-of-date.

Furthermore, policymakers should ask why any form of industry cross-subsidy should be required to support NBN's Sky Muster service, given the arrival of competitive commercial alternatives like Starlink. Sky Muster services-in-operation (SIOs) peaked in Q3 2021 at 112,257, and have consistently declined to 87,209 in April 2024 – losing one-fifth of its users in less than three years. This period correlates with the launch of Starlink in Australia, which reportedly had more than 120,000 Australian SIOs as of May 2023[2] - a figure which would only have grown since then.

Consumers are voting with their wallets and paying the market rate for Starlink services, even when the cross-subsidised Sky Muster has plans available from less than half the price.

Industry should not be forced to subsidise NBN's outdated satellite technology when consumers are showing a clear preference for superior, commercially-available alternatives.

Charge base unit

- What is the most appropriate charge base unit for the RBS?

[2] 'Musk's Starlink grows 20pc since Feb, charges past NBN satellite users' AFR, 5 May 2023

As stated previously in this response, while the 'chargeable premise' is an administratively-complex charge unit to assess, given that the RBS has been in effect for three years, operators required to assess their levy liability have, by now, already implemented the internal processes required to ascertain this figure. Changing the charge base unit would require operators to go through this process again to ascertain their levy liability under a new unit – meaning the existing unit, despite its complexity, is preferable to a new one.

That being said, should the charge base itself be amended (for example by including other connection types), then this would likely require a change to the charge base unit, as other technologies are unlikely to easily fit the existing definition.

Exemptions

- Is the 2,000 chargeable premises per month concession appropriate for small networks? Is there a case for variation of this exemption, for example by aligning it with the current 12,000 premises exemption from the structural separation requirements in Part 8 of the Tel Act?
- The transitional concessions were put in place to support carriers as the RBS began operation. Are there any lessons or observations related to the transitional concessions that the Government should consider?

No response.

Transparency and administration

- Are there any lessons or observations related to the transparency or administration arrangements for the RBS that the Government should consider?

While the RBS does increase transparency with respect to the support being provided for NBN's supposedly non-commercial fixed wireless and satellite services, it also lacks transparency in other respects.

First, unlike the TIL, the operators contributing to the RBS, and the amount of their annual contribution, are not publicly disclosed.

Second, while the RBS legislation publicly calculated NBN's anticipated losses on its non-commercial networks at a point in time, the RBS lacks transparency in that it does not include any mechanism to re-calculate this figure in light of changes to NBN's financial circumstances. Therefore, while the cross-subsidy amount is transparent, the accuracy of the amount is not – rather, it is a historical figure that has been outdated since it was calculated due to ongoing Government funding towards NBN's various networks.

General request for input

- Stakeholders are invited to provide views on the following matters:

  a) The operation of Part 3 of the TCPSS Act

  b) The operation of the remaining provisions of the TCPSS Act to the extent to which they relate to Part 3 of the TCPSS Act

  c) The operation of the Tel Act to the extent to which that Act relates to Part 3 of the TCPSS Act

  d) The operation of the Charge Act

  e) Whether Part 3 of the TCPSS Act should be amended

  f) Whether the remaining provisions of the TCPSS Act, to the extent to which they relate to Part 3 of the TCPSS Act, should be amended

g) Whether the Tel Act, to the extent to which that Act relates to Part 3 of the TCPSS Act, should be amended

h) Whether the Charge Act should be amended.

Yes – the legislation should be amended to abolish the RBS charge in its entirety, as part of broader reforms to the universal services framework.

Operation and administration of the TIL

- Are there any lessons or observations from the operation and administration of the TIL that would be useful for the Government to understand in considering long-term funding arrangements?

The TIL should not be looked at in isolation, but considered in conjunction with the RBS – given both levies are ultimately in place to fund non-commercial services (and both funds go towards legacy technologies despite the availability of superior, unsubsidised commercial alternatives).

The USO sees Telstra paid $230 million a year to deliver the Standard Telephone Service, and Telstra itself contributes around half of the total TIL. However, Telstra's share is declining – from $157 million in 2019, to $103 million in 2023. Meanwhile, NBN's contribution to the TIL has increased from just $11 million in 2019 to almost $35 million last year. Over the past five years Telstra's share of the TIL has decreased by more than a third, while NBN's has more than tripled.

At the same time, the RBS amounted to $803 million last financial year, and Telstra is one of the telcos paying the RBS levy.

So NBN is paying Telstra tens of millions of dollars a year through the TIL to operate its copper network – at the same time Telstra is paying NBN tens of millions of dollars a year through the RBS to operate its fixed wireless and satellite networks – all serving the same premises.

Combined, these two levies result in more than $1 billion of cross-subsidies annually for duplicative networks serving the same users.

The lesson for Government is that any future funding arrangements cannot be addressed in isolation, they must be considered in the context of the numerous funding mechanisms already subsidising regional communications.