

Mobile Coverage Programme Discussion Paper

Submission Cover Sheet

Submission Information

This cover sheet should be attached to submissions made to the Department of Communications in relation to the Mobile Coverage Programme Discussion Paper.

Contact Details

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Date:	28 February 2014

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All submissions and comments, or parts thereof, will be treated as non-confidential information unless specifically requested, and acceptable reasons should accompany each request. Email disclaimers will not be considered sufficient confidentiality requests.

Respondents lodging a submission should be aware that submissions (excluding any information agreed to be treated as confidential information) will be made publicly available, including on the Department of Communications' website. Submissions and comments will be subject to freedom of information provisions. Despite a submission being identified as confidential or sensitive, submissions may be disclosed where authorised or required by law, or for the purpose of parliamentary processes.

Do you want all or parts of the submission to be treated as confidential? **No**

If yes, identify below which parts of the submission are to be treated as confidential (and provide a reason):

If the submission contains personal information of any third party individual, indicate on this Submission Cover Sheet if that third party individual has not consented to the publication of his or her personal information:

Submission Instructions

Submissions are to be made by **5:00pm (AEST) Friday 28 February 2014**.

Where possible, submissions should be lodged electronically, preferably in Microsoft Word or other text-based formats via the email address mobilecoverage@communications.gov.au

Alternatively, submissions can be sent to the postal address below (to arrive by the due date):

The Manager
Mobile Coverage Programme
Department of Communications
GPO Box 2154
CANBERRA ACT 2615

All submissions lodged will be acknowledged by the Department of Communications by email (or by letter if no email is provided). Respondents lodging a submission who do not receive acknowledgement of their submission should contact the Department. Submissions which are not acknowledged by the Department as being received may not be considered. Respondents should be aware that emails greater than 10Mb may not be successfully delivered.

28 February 2014

The Manager
Mobile Coverage Programme
Department of Communications

By Email

mobilecoverage@communications.gov.au

RE: Mobile Coverage Programme Discussion paper

Thank you for the opportunity to respond to the Mobile Coverage Discussion Paper (the Discussion Paper) issued by the Department in December 2013.

The Nextgen Group (Nextgen) is an interested stakeholder in this programme on account of our extensive fibre network, and capacity to provide backhaul services to Mobile Network Operators (MNOs).

This submission contains responses to a number of the questions raised in the Discussion Paper. These responses are attached overleaf.

By way of an overarching introductory comment, Nextgen submits that there are some design issues with the current specification of the options for the delivery of the '\$80 million Mobile Network Expansion Project' which should be carefully considered. We also believe that the programme gives rise to substantive policy questions about the role of NBN Co in Australia's telecommunications sector, and in doing so overlaps with the current Vertigan Review into regulatory arrangements for the National Broadband Network (NBN).

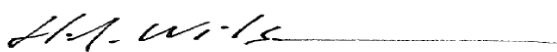
In terms of design issues, there is a clear inter-dependency between the existence of network infrastructure to support backhaul requirements and the capacity to establish base stations which will in turn enable improved coverage (and possibly improved competition).

In terms of NBN Co, Nextgen recognises that there is some merit in allowing NBN Co's fixed-wireless assets to be used to improve mobile coverage in regional areas where there are issues with mobile coverage. Any such usage of these assets, however, should only be permitted in clearly defined circumstances as this activity is outside NBN Co's intended remit and broaches upon an established competitive market. In order to avoid market distortions and potential competitive neutrality issues as a result of the Mobile Coverage programme, it is submitted that:

- a) Any future, proposed implementation options should be consistent with the findings of the Vertigan Review; and
- b) The ACCC may need to be involved in determining the circumstances in which NBN Co's fixed wireless assets can be used to support improved coverage and competition in regional areas.

We would be happy to discuss any aspect of our submission in more detail.

Yours faithfully



Hugh Wilson
Manager, Regulatory & Public Policy
NEXTGEN GROUP

Response to questions raised in the Discussion paper

The table below sets our response to a number of the questions raised in the Discussion Paper.

<i>Question</i>	<i>Response</i>
Delivery option 3 – Network infrastructure provider to co-ordinate implementation	
<p>5. Should bidders be able to propose to incorporate the use of base stations owned by NBN Co as part of their bid?</p>	<p>Nextgen recognises that there is some merit in allowing NBN Co's assets to be used to improve mobile coverage in regional areas.¹ That said we believe that any such usage gives rise to policy questions as this activity is outside NBN Co's intended remit and broaches upon an established competitive market.</p> <p>Nextgen submits that in order to avoid market distortions and potential competitive neutrality issues as a result of the Mobile Coverage programme, any involvement of NBN Co in the mobile market needs to be subject to clear, pre-determined constraints so that no precedent for this type of market involvement elsewhere is established.</p> <p>In our view the 'usage' proposal overlaps with the current Vertigan Review into regulatory (and structural) arrangements for the National Broadband Network (NBN). Accordingly, any proposed implementation options for the Mobile Coverage programme should be consistent with the findings of the Vertigan Review.</p> <p>On the matter of pre-determined constraints, we submit that an independent body such as the ACCC should be involved in determining the circumstances in which NBN Co's fixed wireless assets can be used to support improved coverage and competition in regional areas.² Matters the ACCC might choose to have regard to include:</p> <ul style="list-style-type: none"> • The intended purpose for the NBN Co owned base station (i.e. the provision of fixed wireless services); • Whether or not NBN has the capacity to provide backhaul from the base stations in question; • Whether or not competitive, commercial backhaul services are available in the geographical area in question; and • Whether or not the MNO in question currently owns or leases any base stations in the vicinity (i.e. coverage range) of given NBN Co owned base stations. <p>In addition to the above matters Nextgen submits that NBN Co should not be permitted to:</p> <ul style="list-style-type: none"> • Actively build additional bases stations beyond those already committed to as part of the fixed-wireless NBN rollout in order to support improved mobile coverage in

¹ While the question is framed in terms of access to NBN Co's base stations, it is assumed that this could also include access to backhaul networks operated (or accessed) by NBN Co. Clarity on this matter is desirable.

² It is noted that the ACCC has previously provided advice on structural aspects of the NBN rollout, namely the appropriate configurations for points of interconnection (POI's).

	<p>regional areas;</p> <ul style="list-style-type: none"> • Connect MNO's to base stations which it owns in area where there mobile coverage already exists; or • Provide backhaul services to MNO's in areas where there is more than one backhaul provider present, or provide backhaul services to the market more broadly. <p>In the event that a network infrastructure provider proposes to use base stations owned by NBN Co and provide the backhaul to service these (or part of the backhaul requirements), Nextgen submits that this backhaul should be subject to open access requirements if it funded in part by the Commonwealth (or another layer of government).</p>
<p>6. Should a joint bid (between a specialist network infrastructure provider and a MNO) be permitted? Should it be encouraged?</p>	<p>Nextgen supports the provision for network infrastructure providers to participate in the Mobile Coverage Programme.</p> <p>Nextgen sees no reason why a joint bid between a specialist network infrastructure provider and an MNO should not be permitted. That said, we are of the view that due to sequencing considerations the issue of any new network infrastructure requirements should be separated out from — and resolved prior to — questions about the possible location of new base station facilities.³</p> <p>In our view due to the Discussion Paper's focus on the use of NBN Co's fixed wireless assets and the existence of a budget constraint, MNO's — in their responses to the current specification of delivery options — will focus their base station/coverage bids on areas where there is fixed wireless infrastructure because it will be less expensive to develop a presence in these areas compared to those where there is no network infrastructure. This scenario gives rise in turn to a number of issues which have the potential to limit the overall effectiveness of the programme.</p> <p>Resolving questions relating to network infrastructure requirements before involving MNO's offers the greatest scope for harnessing the market to support substantive improvements in both mobile coverage and competition. Such an approach would eliminate sequencing considerations and enable MNO's to capture operational synergies on account of knowing, ex-ante, where new network infrastructure — with open-access provisions — was to be installed as part of the programme.⁴</p>

³ In the current context, the term 'sequencing considerations' reflects the interdependency between the existence of network infrastructure and the ability to establish base stations, and the fact the former is a prerequisite for the latter.

⁴ We note that the open-access provisions which will accompany any new network infrastructure require that there is sufficient capacity to meet the needs of at least three MNO's — Nextgen submits that the potential for this capacity to be fully utilised will be maximised if questions relating to network infrastructure requirements are resolved before MNO are involved due to sequencing considerations. That is, if — as part of a future tender process — MNO's are not aware of network infrastructure which they can possibly utilise, they have no opportunity to factor this into their submission, forgoing the realisation of potential operational synergies.

<p>7. Is it realistic to expect specialist network infrastructure providers to provide backhaul (recognising that they would presumably need to contract with a third party to provide this)?</p>	<p>Nextgen, which is primarily concerned with the provision of backhaul services, considers itself to be a network infrastructure provider.⁵ As such we believe it is realistic to expect any specialist network infrastructure providers involved in the programme to provide backhaul services.</p>
<p>8. Is option 3(b) suitable for Australia's regional mobile market?</p>	<p>Nextgen is of the view that sufficient capability exists within the telecommunications industry to implement the technical and operational components of both the backhaul and wireless components of option 3(b). However, were this option to be pursued it is anticipated that the Government may need to remove both the associated demand risk and spectrum acquisition costs.</p>
<p>Open access and co-location provisions</p>	
<p>10. Will the proposed open access provisions be sufficient to encourage other MNOs to use the base stations to provide mobile services?</p>	<p>The use of open-access provisions is logical in the current setting, however they may not necessarily result in the utilisation of publicly funded base station infrastructure due to:</p> <ol style="list-style-type: none"> a) Uncertainty about the ability to access brownfield stations in the corresponding vicinity (i.e. on the same backhaul network); and b) Uncertainty about the allocation of demand risk — if an MNO cannot (or does not expect to) recover its costs it may be unwilling to provide the upfront capital needed for obtaining a base station presence.
<p>11. Should MNOs be required to pre-commit to/co-invest in the base stations for which they wish to share infrastructure?</p>	<p>In Nextgen's view there is some logic to this suggestion as it could reduce the scope for potential gaming or non-committal behaviour by MNO's. That said:</p> <ul style="list-style-type: none"> • a willingness to make firm pre-commitments could be offset by the corresponding, implicit assumption of demand risk as a consequence; and • making pre-commitments in one area could reduce the capability of a given MNO to make investments in other areas in the event that the programme were to fund the construction of new network infrastructure — this scenario is one variant of the sequencing issues associated with the current design of the delivery options.
<p>14. What are the most appropriate models/benchmarks for establishing access and backhaul pricing, and for reflecting in that pricing the value of the public funding received by the owner of the facilities (such that access seekers receive an appropriate discount from the market price for access to the facility)?</p>	<p>Nextgen notes that the ACCC periodically undertakes benchmarking of backhaul pricing as part of its DTCS (Domestic Transmission Capacity Service) Final Access Determinations. There are, however, numerous factors which require consideration when benchmarking backhaul pricing. These include path distance and the level of demand, which can vary on a route-by-route basis.</p> <p>Different approaches may also be required in respect of new backhaul infrastructure versus the use of existing backhaul</p>

⁵ Previously, in instances where our activities have intersected with MNO's requiring base station facilities, we have been able to manage the construction of these through the use of contractual arrangements.

	<p>infrastructure. Some of the nuances here are considered below.</p> <p><i>New backhaul infrastructure</i></p> <p>In general terms, the value of any public funding would be reflected by way of backhaul prices that — inter alia — are lower than what would typically be observed in a competitive market. Put another way, cost recovery (and thus pricing) would usually exclude the public funding, and be based upon the non-public funding, a margin on that funding (to reflect the cost of capital), and operational costs.</p> <p><i>Existing backhaul infrastructure</i></p> <p>Where existing backhaul infrastructure is utilised for the purposes of the programme the value of any public funding would presumably materialise as a discounted price, but determining specific commercial arrangements could be difficult. One issue which would need consideration is the potential gaming of the scenario by MNO's whereby access to infrastructure is sought under the guises of the programme as opposed to normal commercial negotiations.</p>
<p>Proposed assessment criteria</p>	
<p>15. Do the proposed assessment criteria achieve the right balance to deliver the best value for money outcomes?</p>	<p>In Nextgen's view some of the proposed assessment criteria are pragmatic but it is also the case that they:</p> <ol style="list-style-type: none"> a) are heavily skewed towards base stations; b) make almost no provision for the assessment of any new network infrastructure which could be required as part of the programme; and c) have very limited provision for one of the programme's key objectives, namely improved competition. <p>In our view the second observation above:</p> <ul style="list-style-type: none"> • gives rise to the question of how any proposals for new network infrastructure — especially those coupled with base station components — would be assessed; and • reaffirms our earlier comments that questions of new network infrastructure should be separated out from those of base station locations. <p>We also note that there appears to be some tension between the core coverage and competition objectives, in that improvements in either of these areas has the potential to detract from improvements in the other (i.e. if you fund additional 'capacity' for base stations and/or supporting network infrastructure in support of increased competition, this could reduce the scope for funding new base stations or network infrastructure to support improved coverage).</p>
<p>16. Should the proposed assessment criteria be weighted, and if so, how?</p>	<p>As outlined above, Nextgen is of the view that that the assessment criteria should be clearer with regard to desired outcomes in terms of both competition and coverage, and how the tension between these objectives will be balanced via weighting in the eventual assessment process.</p>

Utilising the NBN fixed wireless network

18. To what extent would the use of the NBN fixed wireless network result in improved mobile coverage outcomes in regional Australia?

Having reviewed the coverage maps associated with NBN Co's fixed wireless network (see Attachment A) we submit that use of these assets would result in only limited improvements in mobile coverage outcomes in regional Australia as there are substantive parts of the country which this network does not reach. For example there is very little (if any) fixed wireless footprint in:

- Areas north of Perth in Western Australia;
- Areas inland from the coast in Queensland;
- Areas in northern parts of the country; or
- Areas in central Australia.

These observations highlight:

- a) the limited coverage improvements that would result from reliance on NBN Co's fixed wireless network as the vehicle for achieving the programme's objectives; and
- b) the implicit need for new network infrastructure to be developed in order to achieve marked improvements in mobile coverage.

19. How best can a greater role for NBN Co improve competition and choice for consumers in regional Australia?

As noted above, Nextgen appreciates that there is some merit in the use of NBN Co assets to improve coverage in regional areas but equally we have significant reservations about this as it is (a) outside of NBN CO's remit and (b) carries with it the very real risk of distorting competitive markets, trading off a short term benefit at the expense of longer term industry outcomes. It is for these reasons that we have submitted that there is a need for:

- a) proposed implementation options for the programme to be consistent with the findings of the Vertigan Review; and
- b) an independent body such as the ACCC to be involved in determining the circumstances in which NBN Co's fixed wireless assets can be used to support improved coverage and competition in regional areas.

Nextgen submits that there the ability for NBN Co's assets to help resolve competition and choice issues around mobile services in regional areas is quite limited. Put another way, NBN Co's involvement is not an end in itself, as illustrated by the unresolved questions about the allocation of demand risk in areas where coverage is extended, the arrangements which will apply in terms of any ongoing subsidisation of these and the limited geographical footprint of the fixed-wireless network.

In our view the 'best' results in terms of competition and choice for consumers are obtained where there is infrastructure based competition, with the key consideration in the current setting being the availability of network infrastructure in areas outside NBN Co's fixed wireless footprint. This consideration underpins our earlier observations about the need for greater clarity about the areas currently denied mobile coverage due to the absence of supporting network infrastructure.

<p>20. In addition to base station location, design and backhaul access, what other considerations would NBN Co need to take into account if it were to also support mobile coverage and competition benefits as part of its mandate?</p>	<p>A core policy principle which NBN Co would need to take account of is Competitive Neutrality, which is a cornerstone of Australia's Competition Policy framework. We anticipate that the application of Competitive Neutrality principles would result in a significant ring-fencing of NBN Co's involvement in the mobile and backhaul sectors.</p> <p>As noted above Nextgen is of the view that an independent body such as the ACCC should be involved in determining the circumstances in which NBN Co's fixed wireless assets can be used to support improved coverage and competition in the mobile sector.</p>
<p>22. How can the Mobile Coverage Programme best complement any role that the NBN fixed wireless service plays in improving mobile coverage and competition?</p>	<p>Nextgen's view — as outlined above — is that the Mobile Coverage Programme can best compliment any role of the NBN fixed wireless service plays in improving mobile coverage and competition by focusing on those areas currently denied mobile coverage due to the absence of supporting network infrastructure. This point goes to the sequencing considerations highlighted earlier, as the availability of network infrastructure is a precursor for mobile coverage.</p>

Attachment A: NBN Co's proposed fixed-wireless network (National view)

