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**Telco Regulation in an Election Year**

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## **Introduction**

Good morning. It's a great pleasure to join you at the 2013 Comms Day Summit.

It's barely April and we've already got an election date locked in, I think we've had an attempted leadership spill, a ministerial reshuffle and now we have the detail of the Coalition's NBN policy.

2013 is shaping up to be a memorable year.

More than a decade ago, it seemed the priority of the Telco sector was not about getting to grips with changing technology or understanding customers' changing expectations.

It was to rote learn Parts 11B and 11C of the Trade Practices Act, and to find a decent Senior Counsel to handle ever-present industry disputes and litigation. The pre-requisite for a successful regulatory executive was how to game the regulatory framework.

But of course there are some very serious issues at stake here. If you've read a newspaper over the last month, you'd be forgiven for thinking that the NBN is the only issue occupying the Australian Telco sector at the moment.

Make no mistake, Optus supports the rollout of a high speed national broadband network and we certainly look forward to the opportunities that it will provide in producing a level playing field.

But we are equally focused on ensuring there is an appropriate regulatory framework that will allow a vibrant retail market to develop and which ensures that Australian consumers reap the benefits through innovative and affordable products and services.

### **Defining Our Own Agenda**

Let me turn first to the significant contribution made by the Telco sector to the Australian economy and society.

A recent AMTA report estimates the mobile industry alone directly contributes around \$7.6 billion to GDP and a further \$6.5 billion in indirect

activity across the entire economy every year.<sup>1</sup> Over the next 12 years it is estimated that mobile technologies will deliver the economy with additional productivity benefits of around \$11.8 billion.

In its own right, Optus has made a substantial contribution to the Australian economy, investing more than \$17 billion in critical infrastructure over the past 21 years.

Since the beginning of 2008, Optus has invested around \$2 billion to double its mobile network capacity in metropolitan areas. In practical terms this means faster data speeds and more consistent in-building coverage for the bulk of our customers who rely on 3G services to run their businesses and stay in touch with family and friends every day.

Over the past 12 months, we've also switched on Optus' 4G network, bringing choice and competition to consumers in every mainland state capital city.

So I would suggest to you that it's essential we get the structure of our industry right – not just because of the contribution the sector makes to Australia's productivity, but because of the vital role for Telecommunications infrastructure in our daily lives.

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<sup>1</sup> Mobile Nation: The Economic and Social Impact of Mobile Technology, Deloitte Access Economics, Australian Mobile Telecommunication's Association, February 2013, p. 26.

## **Structural Reform**

Pleasingly it appears structural reform is a given, particularly in light of the Coalition' policy announcement.

Optus is confident that regardless of the Government of the day there will be:

- a structurally separated Telstra, and
- a wholesale-only open access network to operate the national high-speed broadband network.

But we must not rest on our laurels and assume all the work is done. Productivity and prosperity requires a constant eye to the reform agenda.

As an industry we must continue to focus on the future market structure and regulatory environment that we operate within.

The principle that the National Broadband Network will operate as a wholesale-only open access network is a critical one and we welcome the fact that this is well established with support across the political divide.

It's important that the ACCC has a front and central role in regulating the NBN or any future variant of it.

I say this not because Optus wants to recreate an environment of disputation and litigation, nor to protect the cottage industry that is telecommunications regulation.

Rather, giving the ACCC this role is the best way to create the incentives and conditions for the NBN to be operated in a manner that best meets the interests of consumers.

In practice we are not calling for the ACCC to look over NBN Co's shoulder and scrutinise its every decision – rather the ACCC should have a clear role in setting access terms upfront, reviewing these overtime and exercising an important back stop role in the rare cases where the industry cannot resolve its differences.

To that end, we think the ACCC's draft ruling on NBN draft Co's Special Access Undertaking is a victory for common sense because it is neither practical – nor possible – to predict either the shape of technologies or the minds of NBN executives over the next 30 years.

It's inconceivable to think of today's industry operating efficiently under a pricing and conditional framework set back in 1983 when there was no Optus, no publically available World Wide Web and certainly no NBN.

After a lengthy, but necessary, consultation process, Optus is pleased the ACCC understands concerns raised by industry and has suggested some important changes that need to be made to NBN Co's SAU for it to be accepted.

If adopted, these changes should provide for greater balance and independent oversight in the process of setting access terms to the NBN. They will also provide stronger incentives for NBN Co to invest efficiently and respond to changing market circumstances and customer requirements over time.

Now that the ACCC has given the parties some direction, this should allow the industry to come quickly to a balanced outcome and determine the degree to which real periodic reviews can be undertaken.

We encourage NBN Co to embrace the ACCC's recommendations fully and put forward a revised SAU. I'm sure we're all keen to put this regulatory debate to bed without delay.

But regulating the NBN is not the only issue we need settled.

If there is a change in Government then a critical priority for the industry will be to build on the progress made to date and ensure that we do not entrench Telstra's dominance, through delays or changes that undermine the principles of structural separation.

If there is a change of government we acknowledge that there will be a period of review. But we ask that this review is swift and decisive and puts a clear stake in the ground around key regulatory principles and markets structures that allow the industry to move forward.

In the future on a wholesale-only network, the battle for the customer should be won on who has the best service, best value and best reputation. It should not be who holds the trump card of access to the household.

But delivering better products and services for our customers is about more than changing our own approach to business.

It's time that as an industry we really put the customer at the centre of the telecommunication regulatory framework. The purpose of any new rules in this space should be to genuinely make customer experience better and to create the widest possible choice for Australian consumers.

### **Regulatory Burden**

Clearly we are in a vastly different market then when the focus was about Part 11B and 11C of the Trades Practices Act, and how much a Senior Counsel was charging per day.

Regulation of the telecommunications industry is far-reaching, complex and often over-lapping. And while regulation is regularly extended, it seems that administrative instruments are rarely reviewed and seldom removed.

At last count the Australian Communications and Media Authority administers 26 Acts and 523 pieces of regulation and yet the Broken Concepts report concluded that 55 of these legislative instruments were either broken or under significant strain. As Chris Chapman said a little earlier things do need fixing and the breakage count continues to grow.

Regulation is a public policy trade off. It is an issue of equity and who bears the cost. And yet, there seems to be an implicit assumption that telecommunications companies are expected to bear the cost of everything as if it were an unstated licence fee to operate.

There are a number of issues with this position:

- 1) It will end up costing the end users;

2) It inhibits productivity; and

3) The costs are being attributed to us as an industry where someone else receives the commercial benefit.

A post-election regulatory reform agenda should not exclude the productivity and economic impacts of far reaching, complex and costly legacy telecommunications regulation.

The transition to the NBN is occurring without an adequate assessment of whether the current regulatory framework, which is based on the concept of a standard telephone service, is either relevant or practical.

For example, I would contend that regulation which requires every household to be provided with a hard copy of the White Pages is simply no longer relevant.

This obligation not only drives up costs for providers but it also draws a cross subsidy from industry with consumers ultimately paying in the form of charges for directory assistance.

Similarly, Customer Information Requirements under the current regulatory framework are costly for providers and confusing for consumers.

We are required to provide consumers with a range of information pre-sale, at the time of sale, after sale and every two years following a sale.

Every new regulation requires us to provide more information to the customer, when in fact this additional information may be of no use to customers at all.

Take for example, the regulatory requirements around the sale of a standard home phone service.

To connect a simple home phone line our sales staff must reference four pieces of primary legislation – including The Telecommunications Act, 1997, The Competition and Consumer Act, 2001, The Privacy Act, 1988 and The Consumer Protection and Service Standards, 1999 – as well as four separate Ministerial Determinations and twenty industry codes.

It's no wonder that customers are frustrated and confused.

The challenge we now have is how to build an appropriate set of regulations that will provide the basis for a vibrant retail market to develop and which in turn best ensures that customers get the full benefits of new technology through access to competitive, innovative and affordable services.

At Optus, we stand accountable to our customers – as all Telco providers should. If we fail the test of providing fast and reliable services that represent value for money, customers will quite rightly exercise their prerogative to look elsewhere.

In this regard, the industry has come a long way over the past several years. Take for example the work done by the TIO.

Optus is a major supporter of the TIO and complaint processes which impose a cost incentive on the carrier to resolve complaints with customers efficiently. This places the TIO at the heart of consumer advocacy.

And the data shows that this aspect of the regulatory system is working. Optus has seen a steady decline in the number of complaints to the Ombudsman over the last six months. In January we saw a 33% decline in complaints compared to the previous year and we're expecting an even greater decline over the next few months.

This is due in part to important changes we have implemented to our own internal customer processes. But it is also a reflection of a shift within our industry and the work done by the TIO to encourage people to go to their carriers in the first instance, rather than make the TIO their first port of call.

This is of course a classic dilemma of self-regulatory and co-regulatory systems versus top-down external regulation. Just how much can industry be trusted to look after itself? Against which we must consider the dramatic increases we have seen in the consumer's capacity to exercise choice and judge service quality.

It is of course one of the arguments that you often hear about unions in a modern mixed economy where high standards of living prevail. How paternal should economic regulation be?

Equally, the same could be said about arguments to increase rather than moderate regulatory frameworks – particularly when there are questions

about the representativeness and duplication of third party advocacy groups and regulatory bodies.

This is not an argument for a free-for-all, but we should be mindful of the fact that our consumer services industry is maturing and it is actually within the interests of carriers to treat their customers well.

We should also be mindful that there is always a risk over-regulation might cost the consumer more than it protects or saves them.

Of course, in the past, a large number of customers were forced to escalate issues to the TIO because of unacceptably poor customer experience.

Indeed, the case can be put that the time in which the TIO really emerged, it was seen by many as the primary customer complaint contact point in lieu of people actually going to their service provider in the first instance.

Unintentional though this may have been, it cannot be denied that it may have contributed to a culture of complaint rather than one of service.

If we treat our customers differently – providing pain-free, reliable and efficient service – together with a convenient port of call, far fewer customers will choose or need to take the TIO route.

Over the past 12 months, our focus at Optus has been very much around developing clear brand differentiation, building strong loyalty with our

existing customer base and building a business based on sustainable revenue and profit growth through improved customer service.

With this in mind, Optus has begun a shift away from a singular focus on net adds and pure customer growth, towards a very determined focus on retaining customers through improved customer experience.

But what exactly does this mean?

It means striving to become one of this country's leading customer service providers: in our service delivery and support; in the products and services we bring to market; and the consistent experience we provide for customers whether they visit a store, call a service centre or visit us online.

We are starting to make incremental changes, whether through the early introduction of SMS usage alerts to help customers monitor and manage their data usage, or through the introduction of simple initiatives such as call queuing which saves customers valuable time when they're looking for assistance.

Of course we don't underestimate the challenge ahead. As a leading player in this industry we know we have more to do to meet and exceed our customers' expectations.

However, I hope that all stakeholders in the industry, from the government to the regulatory bodies ... as well as the carriers, can bind together to provide Australians with affordable, reliable and competitive communications services.

What we need to remember is that this is a task that might be better undertaken through a culture of customer care married to a contemporary regulatory framework that is reviewed to be fit-for-purpose.

That's better than adding new regulations for new products, purely to duplicate the intent of old regulations developed for old technologies.

Thank you.