

# Ericsson submission to the Department of Broadband Communications and the Digital Economy National Broadband Network Legislative Framework

For the attention of Daniel Tangri  
Via Email: [nbnlegislation@dbcde.gov.au](mailto:nbnlegislation@dbcde.gov.au)

***Re: National Broadband Network Legislative Framework***

Dear Mr Tangri,

Ericsson is one of the largest telecommunications vendors in the world, supplying telecommunications operators with fixed and mobile broadband infrastructure, applications and services, active in more than 140 countries for over 100 years. In Australia, Ericsson's workforce of over 2000 supports the country's largest and smallest network operators, ISPs, utilities, application and content providers.

Ericsson welcomes the opportunity to provide input to the Department of Broadband Communications and the Digital Economy (DBCDE) as it considers the legislative framework for the planned National Broadband Network (NBN).

As an industry participant with an ongoing interest in effective infrastructure and services competition, Ericsson is keen to be included as a vendor of infrastructure and services to the NBN Company (NBN Co) as well as to service providers.

Since Ericsson does not anticipate becoming an access seeker to the NBN Co, we will not be commenting on the legislative framework as it relates to the optimal access regime. Our comments will focus on issues relating to consumer benefit and choice, industry investment, innovation and competition, and other considerations for the ongoing obligations on the NBN.

**Defining the National Broadband Network:**

Ericsson welcomes and supports the Government's proposal to create a National Broadband network to support Australia's business productivity and efficiency, economic growth, health and educational outcomes in metropolitan, regional and rural areas.

Ericsson is not seeking to provide a definition of what the NBN and NBN Company are each to be, however wish to flag that this is a subject of industry discussion and debate in various foras, most notably the Communications Alliance, which will provide specific input to the Department in due course. It is worth noting, however that the NBN and the NBN Company will each require specific descriptions that identify the intent, purpose, obligations etc of each over time.

In describing the NBN, and the relationships the NBN Company (or companies) may have with various industry participants, there is a range of terminology that will need to be

**TAKING YOU FORWARD**

defined and agreed. It cannot be assumed that terms used today will be relevant in tomorrow's NBN environment. This is another area of industry consultation presently underway, which seeks to provide agreed and forward looking descriptions of terms, roles and relationships.

The purpose of the NBN:

The government has described in its National Broadband Network Policy Brochure (June 2008) the rationale for creating the NBN, citing a forecast continued increase in demand for broadband services and applications, and the need to respond to the market's failure to deliver a competitively priced, high speed broadband environment in comparison with other OECD economies.

**In line with this, Ericsson suggests that the defined purpose of the NBN is to address a specific market failure, namely the lack of sufficient fixed broadband infrastructure to promote consumer choice and competition, when compared with international benchmarks.**

While it is important to have clarity about the intent of the NBN, it is equally important to note what the NBN is not intended to do, we suggest that the NBN is not intended to apply Commonwealth funds to markets where competition and investment are already strong, ie mobile voice and broadband access.

In the event that a lack of competition is perceived in another sector of the industry, the reasons for any perceived lack of competition should be assessed (i.e. spectrum availability), before NBN intervention is promoted.

Further to the initial intent in creating the NBN, Ericsson believes the NBN needs to maintain performance standards that are considered internationally competitive. To achieve this it will be imperative to invest in upgrades over time, including after the NBN is privatized. This requires regulators and policymakers to consider the most effective mechanism to apply to ensure that the NBN maintains this international competitiveness, which could be linked to FTTH Council international benchmarks, OECD peer rankings or similar.

These guiding principles should define the role of the NBN over time, and be under the purview of the ACCC to ensure it remains on course in the interests of consumers and competition.

Maximising industry participation and innovation

- Ericsson has observed that competition and consumer choice are best served when networks are deployed according to accepted international standards, promoting maximum opportunity for industry participation and innovation.
- The NBN should be required to adopt internationally accepted technical standards wherever applicable to ensure opportunity for maximum industry participation; competitive pricing via economies of scale; the NBN can continue to evolve in line with global developments; and that local innovation can be internationally relevant.

Definition of services

- As the legislative framework is being developed, it should not either intentionally or unintentionally provide definitions of services that are expected to be defined through the implementation study. This will ensure that industry input is able to be considered, and that maximum flexibility is retained as the government's intent takes shape in the NBN.
- An example of this is the definition of 'broadband' – there is a risk that this can be defined to today's experience of broadband, or even more narrowly to an 'internet access'.
- It is proposed that the NBN will constitute a range of technologies for the provision of broadband access being Fibre to the Premises (FTTP), terrestrial wireless (such as HSPA and LTE) and satellite. This will necessitate a variation in approaches to retail service provider access, ie wholesale access can look different on each technology, and models other than wholesale access may be considered for wireless parts of the network, where the NBN Company may or may not own any infrastructure. The legislative framework should consider that these matters are to be resolved over the coming months, and not risk limiting the possible approaches to resolving the 'last 10%' in the way that wholesale services are described where the NBN Co may not own and operate certain infrastructure.
- It is anticipated that the broadband network will be an enabler to the provision of a range of applications; health, security, educational, energy, financial, entertainment, business and more, many of which will not be delivered over the 'internet', or via an ISP but through a specific commercial and supply relationship between an (application) service provider and individual businesses, households and organizations, which needs to be anticipated by regulators and policymakers.

Other considerations for and obligations on the NBN Company (companies)

- To mitigate both short term delivery risks, and to ensure longer term technology evolution, the procurement policy should consider the benefits of appointing multiple technology suppliers for significant technology requirements.
- To ensure spending of these significant public funds is managed in a fair and transparent manner, an appropriate form of Government procurement guidelines should be followed.
- Given the critical nature of technology choices in both creating and evolving the NBN, the NBN Co should have direct commercial relationships with technology vendors rather than delegating key technology decisions to any 'prime' contractors.
- The NBN network will form part of Australia's future critical infrastructure, therefore it is essential that security issues involving technology and services are managed very carefully, with due consideration of physical and other/virtual security issues.

Ericsson appreciates the opportunity to make this submission to the Department as part of the ongoing consultation for the National Broadband Network. Should there be any points raised within that require further discussion or explanation; I am pleased to be contacted directly.

Sincerely,

Stephanie Huf

General Manager, Public Affairs and Communications  
Ericsson Australia and New Zealand