



Optus Submission

Department of Broadband, Communications and the Digital
Economy

Retail Price Controls Review

Discussion Paper

November 2011

Table of Contents

Section 1. Overview.....	3
Section 2. The Impact of the NBN	5
The advent of the NBN.....	5
The new competitive landscape.....	6
Section 3. The Impact of Regulatory Reforms in the Interim Period	9
Structural Separation Undertaking (SSU).....	9
Regulatory reform associated with the NBN.....	11
The effect on existing market competition.....	12
Section 4. The Effects of Continued Retail Price Control Regulation	15
The costs of retail price control regulation	15
Retail price controls limit efficient pricing	16
Continuation of social policy goals in a competitive environment	17
Appendix A: Response to Specific Questions	20

Section 1. Overview

- 1.1 Optus welcomes the opportunity to participate in the review of the retail price controls (RPC) regime (the Review) being conducted by the Department of Broadband, Communications and the Digital Economy (the Department).¹
- 1.2 Optus has long argued that the focus of Government attention should be at the wholesale level in supporting competition and not at the retail level (albeit there should be the option of safety net arrangements). In this respect, we note that several important policy developments have been or are in the process of being implemented:
- Changes to the legislative framework governing access regulation which accords the Australian Competition and Consumer Commission (ACCC) strong powers to set access terms and conditions, including price;
 - Telstra's Structural Separation Undertaking (SSU) and associated interim equivalence arrangements; and
 - The National Broadband Network (NBN).
- 1.3 Each of these is aimed at delivering a significant lift in competition in the fixed line sector. Whilst the details of these latter two policies are still to be settled the Government should have the courage of its convictions and start the process of rolling back the RPCs. In particular, we note that the ACCC has set prices for key access services that support fixed line voice services.
- 1.4 Accordingly, the RPCs should be removed following the expiry of the current controls on 30 June 2012. By that date it is anticipated that, the Department's policy objectives will largely be delivered through the significant structural changes underway in the industry, and the RPCs will have been rendered superfluous.
- 1.5 It is, however, fundamental that the regulatory and commercial instruments which govern access to the NBN (the Special Access Undertaking and the Wholesale Broadband Agreement) are effective and workably pro-competitive. This is because retail service providers (RSPs) are limited in what they can achieve by the terms and conditions of access to the NBN. Appropriate arrangements will enable the NBN to deliver the intended benefits of competitive retail prices through vigorous competition between RSPs. In order for price controls to be removed at the *retail* level, there must be an effective *wholesale* price control regime.
- 1.6 If the Department is minded to adopt a more cautious approach and seek to retain some element of retail level protection, Optus will contend that it should consider a progressive roll back of the RPCs in parallel with the NBN migration, on an exchange by exchange basis. At the very least, Optus will argue that the RPCs should no longer apply to more competitive segments of the market such as urban areas and business customers.
- 1.7 The remainder of this submission is structured as follows:
1. Section 2 provides an overview of the NBN policy and how it will address Telstra's wholesale market dominance;

¹ The Department of Broadband Communications and Digital Economy, *Retail Price Controls Review: Discussion Paper*, 21 October 2011

2. Section 3 describes how wholesale markets are expected to improve in the interim period given regulatory reform and the impact on competition; and
3. Section 4 discusses the market distorting effects of a continuation of the retail price control regime.

1.8 In addition, Appendix A includes Optus' responses to the Department's specific questions.

Section 2. The Impact of the NBN

- 2.1 During the twenty years that the RPC regime has been in place retail market competition has substantially improved.
- 2.2 However, significant problems have remained in the wholesale market. This has stemmed from Telstra's longstanding dominance in the wholesale market which is derived from its ownership of the only ubiquitous fixed-line telecommunications network in Australia. However, Telstra's loss of control over its fixed network as the NBN is deployed will inevitably erode its dominance.
- 2.3 In this section, Optus will argue that retail price controls are no longer required because:
- The rollout of the NBN will replace Telstra's copper network; and
 - The impact of the NBN – provided it is appropriately regulated – on wholesale and retail competition will substantially reduce (if not eliminate) the need for RPCs.

The advent of the NBN

- 2.4 While Telstra currently retains monopoly ownership of the copper network, the establishment of the NBN will address the structural issues which have hitherto persisted in the fixed-line market due to Telstra's integration. This structural change will obviate any continuing justification for the control of Telstra's retail pricing.
- 2.5 This was recognised by the Department in the Discussion Paper, where it stated the NBN is "likely to remove one of the main reasons for the existence of price controls".²
- 2.6 The initial uncertainty regarding the fulfilment of the NBN policy that followed the Government's announcement on 7 April 2009³ that it would establish a new company to build and operate a National Broadband Network (NBN) has been largely dispelled by recent events. Following its creation in August 2009,⁴ in December 2010 NBNCo published its Corporate Plan.⁵ The Plan sets out its key objectives and priorities for the period 1 July 2010 to 30 June 2013.
- 2.7 Further, on 28 March 2011, the National Broadband Network Companies Act (NBN Companies Act) and the Telecommunications Legislation Amendment (National Broadband Network Measures –Access Arrangements) Act (NBN Access Act) (together "the Acts") were passed by the Parliament and received royal assent on 12 April 2011.⁶
- 2.8 The importance of the NBN policy itself is set out in the Acts. The key obligations of NBN Co include the provision that NBN Co is to be operated as a wholesale-only telecommunications company, the Australian Government must retain full ownership of NBN Co until the rollout is

² The Department of Broadband Communications and Digital Economy, *Retail Price Controls Review: Discussion Paper*, 21 October 2011, p.5

³ Prime Minister, Treasurer, Minister for Finance, Minister for Broadband, "New National Broadband Network", Joint media release, 7 April 2009

⁴ NBN Co website, <http://www.nbnco.com.au/about-us/index.html>, accessed 16 November 2011

⁵ NBN Co, *Corporate Plan*, 17 December 2010

⁶ The National Broadband Network Companies Act (NBN Companies Act), the Telecommunications Legislation Amendment (National Broadband Network Measures –Access Arrangements) Act (NBN Access Act)

complete; and that NBN Co must supply its services in a regulated, open and non-discriminatory manner. This means that without a commercial retail arm, NBN Co will not have the incentive to favour its own business over another operator's and the wholesale access regime will be an integral part of NBN Co's development.

- 2.9 In a significant development on 23 June 2011 NBN Co signed Definitive Agreements with Telstra.⁷ One of the key components of the Definitive Agreements is that Telstra will progressively disconnect its copper and HFC customers (other than HFC pay TV) and migrate them across to the NBN.⁸ Telstra has also subsequently lodged a draft migration plan and structural separation undertaking with the ACCC.⁹
- 2.10 Optus considers that if appropriate institutional arrangements are implemented, the migration will address Telstra's level of vertical integration and reduce Telstra's market power over the fixed line network. This would lead to improvements in wholesale markets.
- 2.11 The Definitive Agreements also mean that in addition to the significant legislation in place, the NBNCo has a contractual obligation with Telstra that means it would incur substantial damages should the NBN rollout not continue. Moreover, NBNCo has a number of contracts with suppliers to facilitate the rollout,¹⁰ with the first 12-month national rollout plan announced on 18 October 2011. NBN Co has also stated that the rollout has already begun in areas that are expected to cover more than half a million homes and businesses across Australia when complete.¹¹

The new competitive landscape

- 2.12 The Government has stated in the Explanatory Memorandum of the Acts that the Acts' aim is to provide "*a platform for retail-level competition to flourish*".¹²
- 2.13 The Government has further stated that the purpose of the NBN policy is to address the current structure of the telecommunications sector where the vertically integrated incumbent, Telstra, owns the only ubiquitous fixed-line network in Australia, and competes against its wholesale customers in downstream retail markets.¹³

⁷ The Hon Julia Gillard MP, Senator the Hon Stephen Conroy, Senator the Hon Penny Wong, Minister for Finance and Deregulation, "*Government –Telstra –NBN Co deals Delivers Historic Telecommunications Reform*", Joint media release, 23 June 2011; Telstra, "*Telstra signs NBN definitive Agreements*", Media Release, 23 June 2011

⁸ Telstra, "*Telstra signs NBN definitive Agreements*", Media Release, 23 June 2011

⁹ Telstra submitted the Migration Plan to the ACCC on 29 July 2011 under s577BDA of the Teleco Act; however, a revised version of the draft migration plan was subsequently submitted on 24 August 2011 (see <http://www.accc.gov.au/content/index.phtml/itemId/1003999>)

¹⁰ NBN Co website, <http://www.nbnco.com.au/news-and-events/news/nbn-rollout-to-begin-in-wa-and-vic-as-construction-contracts-signed.html>, accessed 21 November 2011

¹¹ NBN Co website, <http://www.nbnco.com.au/news-and-events/news/nbn-co-releases-12-month-national-rollout-plan.html>, accessed 16 November 2011

¹² Explanatory Memorandum, the National Broadband Network Companies Act Explanatory Memorandum, the Telecommunications Legislation Amendment (National Broadband Network Measures –Access Arrangements) Act

¹³ Explanatory Memorandum, Telecommunications Legislation Amendment (Competition and Consumer Safeguards Bill) 2010

- 2.14 NBN Co offers Layer 2 wholesale services to service providers and service providers are expected to acquire this service and use their own infrastructure to provide either retail services to end users and/or provide 'value-added' wholesale services to other retail service providers.
- 2.15 It is already clear that besides Telstra, there will be a substantial number of retail service providers (RSPs) taking wholesale services from NBN Co. There are already 28 retail service providers who have signed up with NBN Co to offer services over the NBN.¹⁴ 12 of these RSPs have already completed the accreditation and on-boarding process in preparation for service delivery.¹⁵ These RSPs include Optus, Telstra, AAPT, AARNet, Comscentre, Exetel, iiNet, Internode, iPrimus, Nextgen Networks, Platform Networks and SkyMesh.¹⁶ This is a promising indication that the NBN platform will be able to deliver effective retail competition.
- 2.16 Importantly though, besides Telstra¹⁷, Optus, AAPT¹⁸ and Nextgen¹⁹ have already announced publicly that they will acquire NBN Layer 2 services both as a wholesaler and reseller. Optus Wholesale and Satellite Managing Director Vicki Brady has stated:
- ...we are already well down the track in preparing for a future working with the NBN.*
- ...Optus Wholesale will be there as an aggregator and reseller of NBN services.²⁰*
- 2.17 Platform Networks has also announced that it would be a wholesale aggregator of NBN services.²¹
- 2.18 The number of NBN wholesale aggregators signifies that the level of concentration in the wholesale market of Layer 2 services is unlikely to be high, which will place a competitive constraint on providers of NBN-based wholesale products, including Telstra. This, in addition to the publication of uniform national wholesale prices will diminish any opportunity for substantial discrimination in terms and conditions of access for RSPs since there will be no significant barriers to acquiring services from another aggregator or NBN Co itself. Such a landscape is a paradigm shift from the current situation where the wholesale market is determined almost entirely by the products and pricing of Telstra.
- 2.19 The NBN should lead to a national outcome where there is a wholesale-only network not controlled by any retail company. This is a tremendous opportunity to address head on Telstra's market dominance. The NBN can and should result in competitive retail prices through vigorous

¹⁴ NBN Co website, <http://www.nbnco.com.au/news-and-events/news/nbn-co-releases-12-month-national-rollout-plan.html>, accessed 16 November 2011

¹⁵ NBN Co website, <http://www.nbnco.com.au/news-and-events/news/nbn-co-releases-12-month-national-rollout-plan.html>, accessed 16 November 2011

¹⁶ NBN Co Limited, "NBN Co announces first service providers for mainland Australia," Media Release, 8 April 2011

¹⁷ Osborne, Glenn, "Straddling Both Worlds: A Telstra Wholesale Update", Speech, Comms Day Summit Sydney, 30 March 2011

¹⁸ Edwards, David, "AAPT to build on NBN aggregator role", Communications Day, 4 July 2011

¹⁹ Wilton, Petroc, "Nextgen details new NBN wholesale strategy", Communications Day, 15 June 2011

²⁰ Brady, Vicky, Managing Director Optus Wholesale and Satellite, "A Wholesale Telco in a National Broadband Network World", Speech, Comms Day Summit Sydney, 29 March 2011

²¹ Platform Networks, <http://www.platformnetworks.net/NBN.php>, accessed 16 November 2011

competition between RSPs. However, for this outcome to eventuate it is imperative that the regulatory and commercial instruments which govern access to the NBN (the Special Access Undertaking and the Wholesale Broadband Agreement) are effective and strictly enforced. Optus submits that the price controls should be removed at the *retail* level – but only if there is an effective *wholesale* price control regime.

Section 3. The Impact of Regulatory Reforms in the Interim Period

- 3.1 Prior to the completion of the NBN, Telstra will retain some control of the fixed-line network. To address Telstra's dominance until the migration to the NBN is complete, the Government has introduced a number of reforms to strengthen access regulation. Optus expects these reforms to improve wholesale markets in the interim period as well as address the Government's other main objective of the RPC policy, that is, the promotion of efficient pricing.²²
- 3.2 In this section, Optus will argue that retail price controls are no longer required because:
- The SSU should – if properly implemented and enforced – ensure equivalent access during the migration process until structural separation is complete; and
 - The implementation of regulatory reforms that were introduced as part of the Acts will improve access pricing certainty.
- 3.3 The combined effect of these reforms will strengthen the existing state of competition in the market. As a result, the RPCs should be removed or at least progressively rolled back as the NBN is rolled out. An overview of the regulatory reforms and the combined effects is set out below.

Structural Separation Undertaking (SSU)

- 3.4 The passage of the Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Act 2010 (CCSA) facilitates the structural separation of Telstra.
- 3.5 The Government stated in the Explanatory Memorandum that its policy objective in facilitating the separation of Telstra is to address Telstra's level of vertical integration during the transition to the NBN. Telstra has been a dominant player in the fixed line market and its dominance is likely to be influenced heavily by its level of vertical integration in the market.²³
- 3.6 As a vertically integrated incumbent, Telstra has the ability and incentive to favour its retail arm over its wholesale customers when providing access to various services, particularly key upstream services access seekers rely on. This would limit the development of competition in the relevant markets.²⁴
- 3.7 The Government recognises that it is important to ensure access seekers are able to access Telstra's bottleneck infrastructure on an equivalent and transparent basis in the lead-up to the NBN.²⁵ Equivalence will address the underlying problem of Telstra discriminating against its wholesale customers.

²² The Department of Broadband Communications and Digital Economy, *Retail Price Controls Review: Discussion Paper*, 21 October 2011, p.3

²³ Explanatory Memorandum, Telecommunications Legislation Amendment (Competition and Consumer Safeguards Bill) 2010, p.9, p.49

²⁴ Explanatory Memorandum, Telecommunications Legislation Amendment (Competition and Consumer Safeguards Bill) 2010, p.13

²⁵ Explanatory Memorandum, Telecommunications Legislation Amendment (Competition and Consumer Safeguards Bill) 2010, p.15

- 3.8 Under the CCSA, Telstra may elect to either submit a voluntary structural separation undertaking or be subject to mandatory functional separation. The CCSA inserted a new Part 33 which enables the Minister to make a number of instruments that provide the statutory framework for Telstra to voluntarily structurally separate.
- 3.9 On 29 July 2011, Telstra submitted a SSU to the ACCC.²⁶
- 3.10 The Regulated Services Determination and the Ministerial Criteria Instrument set out the matters which the ACCC must have regard to in deciding whether to accept Telstra's SSU. The ACCC must not accept a SSU unless it is satisfied that the SSU contains appropriate measures and arrangements to promote *transparency and equivalence* in relation to the supply of regulated services by Telstra to its retail business units and Telstra's wholesale customers.²⁷
- 3.11 This is further reinforced in s577A of the Telco Act. One of the mandatory requirements the ACCC must consider in assessing the SSU is whether it provides for appropriate and effective transparency and equivalence in relation to Telstra's supply of regulated services to its wholesale customers and its retail business units. The ACCC must also assess if the SSU provides for adequate monitoring, and process to facilitate monitoring of Telstra's compliance with the SSU.
- 3.12 On 30 August 2011, the ACCC issued a discussion paper inviting interested parties' comments on Telstra's SSU. The ACCC stated in the discussion paper that Telstra's SSU in its current form could not be accepted as it fails to satisfy the legislative requirements.²⁸
- 3.13 Optus agrees that the current SSU is not fit for purpose. However, Optus confidently expects the ACCC to rectify this matter, and not to settle for less than what is required in order for the intended pro-competitive effects of the SSU to be fully realised.
- 3.14 Should the ACCC decide not to accept Telstra's SSU, the ACCC has outlined two alternative paths available to Telstra including:
- Telstra submitting a revised SSU; or
 - Telstra would be required to functionally separate and may be subject to the "excluded spectrum regime" under s577GA of the Telco Act.²⁹
- 3.15 In October 2011, Telstra indicated that it has been working closely with the ACCC on the SSU and expected to submit a revised SSU in the coming weeks.³⁰ The approval of Telstra's SSU is a condition precedent to the Definitive Agreements between Telstra and NBN Co signed on 23 June 2011.

²⁶ Telstra, *Structural Separation Undertaking to the ACCC under s577A of the Telco Act*, submitted on 29 July 2011

²⁷ The Telecommunications (Regulated Services) Determination (No.1) 2011 (*Regulated Services Determination*)

²⁸ ACCC, *Assessment of Telstra's Structural Separation Undertaking and Draft Migration Plan*, Discussion Paper, 30 August 2011, p.2

²⁹ ACCC, *Assessment of Telstra's Structural Separation Undertaking and Draft Migration Plan*, Discussion Paper, 30 August 2011, p.33-34

³⁰ Telstra website, <http://www.telstra.com.au/abouttelstra/media-centre/announcements/telstra-shareholders-set-to-approve-participation-in-nbn-rollout-1.xml>, accessed 16 November 2011

- 3.16 Optus submits that the separation of Telstra, if implemented correctly based on the principles and objectives outlined in the Telecommunications (Acceptance of Undertaking about Structural Separation-Matters) Instrument 2011 and s577A of the Telco Act and strictly enforced, will bring real changes to the competitive dynamics of the fixed line regulatory regime.
- 3.17 Once the NBN is rolled out, it will provide Telstra's competitors with the ability to acquire network access on equivalent terms and conditions across the whole of Australia for the first time.
- 3.18 Accordingly, the interim equivalence arrangements, if they are appropriately designed and strictly applied, along with the pricing reform, will go a long way towards addressing wholesale market issues. As a result, efficient pricing can be expected to be encouraged and in turn competition is expected to intensify, which will be facilitated by the SSU.

Regulatory reform associated with the NBN

- 3.19 A view that competition has not developed in the retail service market as originally envisaged has driven the continued justification for retail price controls. However, the ACCC has acknowledged that this issue has stemmed largely from the bottleneck in the wholesale market where Telstra has for many years enjoyed unrivalled market power, explaining in 2004 that:

*The ACCC considers that many retail telecommunications markets in Australia are not effectively competitive. This generally stems from a **lack of competition in the wholesale markets** where Telstra has ownership of the ubiquitous fixed-line local access network, which connects virtually every household in Australia, and from which it derives market power.*

In these circumstances, retail price controls can assist in delivering the benefits of competition to consumers. Retail price controls aim to limit the extent to which a service can be priced above cost (including a normal return on investment), thereby promoting the long-term interests of end-users (LTIE).³¹

- 3.20 For this reason, Optus and other parties have advocated for 'first best' policies of structural and regulatory reform to target the problems of ownership (vertical integration) and pricing certainty, rather than the 'second best' policy of a continuation of retail price control regulation. These have culminated with the introduction of the NBN to tackle structural issues (discussed above) and the CCSA which amends the former Trade Practices Act to provide pricing certainty for Telstra's wholesale services in the interim period under a new regulatory regime.
- 3.21 The CCSA made a number of amendments to Part XIB and Part XIC of the CCA. The amendments were made to streamline the current access regime and minimise opportunities for "regulatory gaming". The effects, combined with the SSU, will support an improved competitive environment prior to the NBN transition.
- 3.22 The competition notice process under Part XIB has now been streamlined in order to allow the ACCC to move quickly to issue a competition notice if it has reason to believe anti-competitive conduct is occurring in the telecommunications industry.
- 3.23 Similarly, the negotiate-arbitrate model under Part XIC has now been replaced by a process which provides the ACCC with the ability to make up-front determinations in relation to the terms of access for declared services. The upfront decision making means that pricing decisions made by the ACCC will provide an appropriate backstop for commercial negotiation without the

³¹ ACCC, *Review of Telstra's price control arrangements*, Final Report, February 2005, p.13

need to resort to timely costs and delays associated with arbitration and regulatory gaming. For example, as of mid October 2010, 164 access disputes had been notified to the ACCC since the commencement of Part XIC regime in 1997³² and Telstra had sought merits and judicial reviews in almost all arbitration determinations made by the ACCC.³³

- 3.24 Telstra's competitors are dependent on the wholesale access charges that Telstra levies. It is therefore important that the regulatory regime provide certainty since the market entry and investment decisions of competitors are based on the premise that they will be able to compete with Telstra on a level playing field.
- 3.25 The amendments to Part XIB and Part XIC of the CCA came into force from 1 January 2011. Since then, the ACCC has already made final access determinations for fixed line services including wholesale line rental, local carriage service, public switched telephone network originating access (PSTN OA), public switched telephony network terminating access (PSTN TA) and unconditioned local loop service (ULLS).
- 3.26 In making Final Access Determinations for the relevant wholesale fixed services, the ACCC has undertaken a fundamental shift in the way that it prices Telstra's services. Instead of relying on 'hypothetical' models of Telstra's network (and the associated costs), the ACCC has sought to more closely align the regulated prices to the costs that Telstra *actually* incurs. The ACCC has also been careful to include appropriate oversight and incentives to ensure that the costs Telstra is incurring are efficient.
- 3.27 Moreover, by adopting a 'building blocks' approach to price regulation there is increased certainty in the forward costs as well since the asset base is 'locked in' and not subject to revaluations which can cause significant price movements.
- 3.28 This will go some way towards promoting efficiency in service pricing which the Department has stated is also a main objective of the retail price control policy.³⁴ Efficient pricing requires prices and pricing structures to be aligned with the underlying costs.
- 3.29 It therefore follows that the regulatory reform has significantly reduced Telstra's ability to set monopoly prices. Efficient pricing has promoted equivalence between Telstra and its access seekers, thereby allowing access seekers to compete with Telstra on a more equivalent basis.

The effect on existing market competition

- 3.30 Optus considers that in aggregate the above developments will strengthen existing market competition such that the price controls can justifiably be removed.
- 3.31 However, in the event that the Government forms the conclusion that a RPC regime continues to be necessary in some form, Optus submits that it should nevertheless consider a partial withdrawal of elements of the regime. For example, the controls should be significantly relaxed particularly in competitive markets such as in metropolitan areas and business customers or rolled back as the NBN is progressively rolled out on an exchange by exchange basis.
- 3.32 In CBD and metropolitan areas this is the case because whilst Telstra retains control of the copper network, its competitors have made significant investments, resulting in competition in

³² Telecommunications Legislation Amendment (Competition and Consumer Safeguards Bill) 2010, p.48

³³ Telecommunications Legislation Amendment (Competition and Consumer Safeguards Bill) 2010, p.48

³⁴ The Department of Broadband, Communications and the Digital Economy, *Retail Price Controls Review: Discussion Paper*, 21 October 2011, p.3

the CBD and metro areas. Optus does not accept that competition has developed in CBD and metropolitan areas to the extent that *wholesale* regulation (ie, resale regulation) can be rolled back.³⁵ *Retail* regulation, however, is no longer necessary.

3.33 Competition has developed in the fixed-line market via a number of mechanisms, being:

- Resale entry: reselling Telstra's infrastructure and services with the competitor's own branding (eg, use of WLR service);
- Facilities based entry: construction of competing infrastructure (eg, mobile, WiMax and HFC networks); and
- Mixed-infrastructure based entry: utilising Telstra's infrastructure but also investing in elements that compete with Telstra's network (eg, use of the ULLS, leased transmission lines).

3.34 The majority of competition has been concentrated in these metropolitan and CBD areas which has been driven by regulated access to resale services and ULLS. This highlights the importance of the continuation of resale access and the potential effect the CCSA regulatory changes will have. The importance of ULLS for competition was noted in 2008 by the ACCC:

*Telstra remains the dominant supplier of retail fixed voice services...However, there has been an increase in competition in downstream retail fixed voice, evidenced by the recent trend of strong take-up of ULLS and a decreased market share for Telstra in retail fixed voice.*³⁶

3.35 The ULLS trend has continued since. In June 2009 there were a total of 1,269,222 ULLS services in operation (SIOs) and in June 2010, there were 1,561,488 ULLS SIOs. The total number of Telstra wholesale and retail ADSL lines on the other hand have dropped from 3,014,158 in June 2009 to 2,877,414 in June 2010.³⁷ By June 2011, ULLS access seekers controlled approximately 10 per cent of SIOs nationally.³⁸

3.36 The ACMA reported that 97 per cent of all ULLS SIOs were located in exchanges in CBD and major metro areas. ULLS were available in 559 exchange service areas (ESAs) and 75 per cent of these ESAs have more than 1 access seeker.³⁹ The Australian Competition Tribunal has previously stated that competition was well developed in the CBD exchange service areas (ESAs):

The Tribunal is of opinion that the widespread existence of competing supply options to serve large business and government end-users in the CBD ESAs means that exemption is not likely to result in any serious long-term damage either to a supplier's ability to compete, or to the efficient working of the competitive process in areas where many

³⁵ Indeed resale regulation is a key driver of a competitive market and will continue to support market entry and expansion in the lead-up to the NBN. This will be further enhanced by the regulatory improvements described above.

³⁶ ACCC, *Telstra's local carriage service and wholesale line rental exemption applications: Final Decision and Class Exemption*, August 2008, p.5

³⁷ ACMA, *Communications Report 2009-10*, p.37

³⁸ ACCC, *Inquiry into varying the exemption provisions in the final access determination for the WLR, LCS and PSTN OA services, Issues Paper*, September 2011, p.32

³⁹ ACMA, *Communications Report 2009-10*, pp.37-38

*rivals exist and where alternative supply options are available to meet the needs of government agencies and large firms.*⁴⁰

3.37 The Tribunal further found that there were six competing fibre networks within the CBD ESAs.⁴¹

3.38 In addition, there has been significant reduction in service prices and they are in fact lower than those required by the price caps, which is demonstrated by the Department at Attachment B of the Discussion Paper.⁴² Accordingly, the Department states that:

*To a greater or lesser degree, Telstra has priced services below the regulated caps, and it argues that competition from other providers is acting to keep prices low.*⁴³

3.39 Moreover in 2008-09 the ACCC measured declines of 42.9 per cent in the average real price for business fixed voices services since 1997-08. Similarly, there has been a 28.5 per cent decrease in the average real price for residential fixed voice services.⁴⁴

3.40 There has also been an increase in the number of retail service providers. In June 2010, there were 306 fixed line telephone service providers operating in Australia, of which 89 offered PSTN and 204 offered voice over internet protocol (VoIP) services.⁴⁵ This is illustrated in the ACMA's Communications Report for the 2009-10 financial year.⁴⁶

3.41 Similarly, business markets are often considered to be relatively competitive compared to retail markets (provided regulated wholesale access to resale services and ULLS remains in place).

3.42 Optus therefore proposes that in the event that the Government believes that the RPC regime is necessary, the controls should be significantly relaxed particularly in areas where competition is intense. In practise this would likely to initiate the removal of RPC in CBD and major metro areas.

3.43 As discussed in the proceeding section, as the NBN is rolled out Telstra will no longer own the fixed line network from which it derives pricing power. Accordingly, another alternative is to remove RPC obligations on an exchange by exchange basis as the NBN is rolled out. Should the Government form the conclusion that the RPCs regime cannot yet be removed in its entirety, Optus submits that this alternative would be an appropriate and measured course of action.

⁴⁰ Application by AAPT Limited [2009], ACompT5, 24 August 2009, para 72

⁴¹ Application by AAPT Limited [2009] ACompT 5, 24 August 2009, para 63

⁴² The Department of Broadband Communications and Digital Economy, *Retail Price Controls Review: Discussion Paper*, 21 October 2011, p.3

⁴³ The Department of Broadband Communications and Digital Economy, *Retail Price Controls Review: Discussion Paper*, 21 October 2011, p.3

⁴⁴ ACCC, Telecommunications Report 2008-09, published on 15 November 2010, p.24

⁴⁵ ACMA, *Communications Report 2009-10*, p.146

⁴⁶ ACMA, *Communications Report 2009-10*, p.23

Section 4. The Effects of Continued Retail Price Control Regulation

- 4.1 Any regulation has costs, in addition to the benefits which it is designed to achieve.
- 4.2 During the twenty years that the retail price controls regime has been in place, it has no doubt to some extent restrained Telstra's pricing, especially in the earlier stages of competition by preventing monopoly pricing to the benefit of consumers.
- 4.3 However, the RPCs are unlikely to be required to deliver these benefits in future, given the substantial improvement in retail market competition. Optus therefore believes that the costs of continued RPC regulations will outweigh any remaining benefits.
- 4.4 In this section Optus will argue that the effects of continuing the RPC regime will impose costs that will outweigh the potential limited benefits of the policy. These costs include:
- Costs of retail price regulation;
 - Market distorting limitations on efficient pricing; and
 - Disruption to competition from the continued pursuit of social policy goals.
- 4.5 These will be discussed below.

The costs of retail price control regulation

- 4.6 The costs of regulation have been characterised by Henry Ergas, a competition economist, as including:⁴⁷
- Compliance costs;
 - Costs of regulatory risk; and
 - The distortions associated with regulatory error.
- 4.7 Compliance costs are those direct costs that are imposed by the regulatory regime, such as the costs incurred by the ACCC to administer the RPC regime. Compliance costs also include the costs of the regulated entity to meet the requirements of the regulations, which in this case is Telstra. It would incur costs in monitoring, reporting, communicating and enforcing the RPC regime to its staff, as well to the ACCC.
- 4.8 Costs of regulatory risk are the business uncertainty that arises from regulation. This may create the need to hedge and so harms investment incentives. For example, under RPC regulation this may affect Telstra's competitors' willingness to introduce innovative products or pricing constructs or expand a facilities based investment given its existing high market share and obligation to offer specific services and pricing levels.

⁴⁷ Concept Economics, *Expert Report – Henry Ergas*, Telstra submission in reply to SingTel Optus' submissions to the Australian Competition and Consumer Commission on Telstra's application for exemption from standard access obligations in respect of the SingTel Optus HFC network dated 17 December 2007 (Appendix D), 4 June 2008, pp.9-10

- 4.9 The distortions associated with regulatory error have costs if the error amounts to over or under investment. Mr Ergas states that regulatory error is inevitable,⁴⁸ however has more relevance in terms of access regulation.
- 4.10 Given the existence of these costs it is likely that the any continued benefits of the RPC regime will be outweighed by the costs. This is because the developments described above in sections 2 and 3 will go some way towards addressing wholesale market issues. This will intensify retail market competition, which will further deliver on the RPC's objectives.

Retail price controls limit efficient pricing

- 4.11 Price differentiation is the practice of charging customers different prices for the same product based on the differences in their willingness to pay for the product or service. Price differentiation is an efficient practice as it allows the operator to supply greater volumes of its products or services across different customer segments.
- 4.12 For example, cinemas charge different prices for adult and child tickets because children are less able and/or parents are unwilling to spend a similar amount to adults and so if they do not charge a lower price, cinemas may lose such patronage. Therefore, price differentiation offers an efficient way for service providers to recover their costs.
- 4.13 The presence of retail price controls limits the flexibility that allows operators to perform price differentiation. Accordingly, operators may be required to recover costs in less than efficient ways which could have the potential to limit consumption if certain consumers would be willing to pay more and others less for the same service. In such a case, the consumer that is only willing to pay less than the stated price 'misses out'. There are important consequences for social equity and inclusion if consumers do not take up services based on the price that may or may not be addressed with social policy measures.
- 4.14 Furthermore, retail price regulation often has the effect of 'locking-in' existing pricing structures. Although a basket approach allows for some limited flexibility in pricing structures, the products that are offered are dictated by the required contents of the baskets. This can have the potential to prevent innovative pricing structures and products from developing, or prevent input cost savings from being allocated to the services most consumed or valued by end-users.
- 4.15 Retail level regulation is commonly viewed as a 'second best' policy measure to address a market failure. Further, in terms of regulatory 'tools', retail price caps represent a relatively inflexible and stringent form of regulation. It is for this reason they should only be applied where first best policy measures are not possible or in their infancy. However, as shown above, the significant improvements in the wholesale market are expected to address efficient pricing objectives and further promote the development of retail competition. In such circumstances the continuation of retail price regulation has the potential to do more harm than good.
- 4.16 This view is expressed in the following quote from the Australian Energy Markets Commission (AEMC) in the context of its review of the effectiveness of competition in the Victorian retail energy markets:

⁴⁸ Concept Economics, *Expert Report – Henry Ergas*, Telstra submission in reply to SingTel Optus' submissions to the Australian Competition and Consumer Commission on Telstra's application for exemption from standard access obligations in respect of the SingTel Optus HFC network dated 17 December 2007 (Appendix D), 4 June 2008, p.10

*Indeed, regulated [retail] prices will almost always provide an imperfect substitute for those prices determined in a competitive market and are likely to impose costs and distortions not present in a competitive market. Regulators have imperfect information and regulated prices often lack the flexibility of market prices. Regulated prices will generally either be too low, deterring investment and innovation, or too high, to the detriment of consumers. Either way, consumers are harmed in the long run...*⁴⁹

- 4.17 As such, the removal of the RPCs will further promote pricing efficiency because it will allow greater pricing flexibility and innovation in a dynamic marketplace. The AEMC's report supports this view as it stated that:

*...regulated [retail] prices tend to discourage innovation in tariff design, which can be a major source of differentiation in retail energy markets, providing consumers with products that best suit their needs and preferences. Tariff innovation has been a notable feature of overseas countries where retail energy prices have been deregulated...*⁵⁰

- 4.18 Experience in the UK shows that the removal of RPCs has benefited consumers and the industry by improving overall economic welfare. Between 2002 and 2006, three of the UK's regulators (Ofcom, Ofgem and Postcomm) removed retail price controls from their respective industries. The controls were removed on the basis that competition had developed sufficiently to be able to rely on the market, and on the restrictions imposed by competition law and consumer protection rules to protect consumers, without the need for price regulation.

- 4.19 A report by the National Audit Office (NAO) evaluated the outcomes from removing RPC in these jurisdictions and stated that:

*The available data shows that competition has developed to varying degrees in all three areas where price controls have been removed. The former incumbents in energy have all lost market share to competitors, although they still retain a large share (46 per cent in gas, and just under 50 per cent in electricity). In the energy sector prices have risen since the price control was removed by around 60 per cent, but Ofgem consider that this reflects increases in the underlying costs. Prices in fixed line telephony have continued to fall after removal of the price control, for example the average cost of residential fixed line calls in 2006 was some 25 per month, down from 30 per month in 2002. BT, the former incumbent, still retains 37 per cent of the telecoms market, but this has been declining recently. In the postal sector, Special Delivery (Next Day business account users) accounts for some 4 per cent of the guaranteed next day express market.*⁵¹

- 4.20 Indeed, the UK experience illustrates that the removal of RPC has the potential to induce price reductions and promote competitive outcomes.

Continuation of social policy goals in a competitive environment

- 4.21 The Department has stated that one of the three primary objectives of retail price controls is to uphold social equity principles.

⁴⁹ AEMC, *Review of Effectiveness of Competition in Electricity and Gas Retail Markets in Victoria: Second Final Report*, 29 February 2008, p.5

⁵⁰ AEMC, *Review of Effectiveness of Competition in Electricity and Gas Retail Markets in Victoria: Second Final Report*, 29 February 2008, p.6

⁵¹ National Audit Office, *Protecting consumers? Removing retail price controls*, HC 342 Session 2007-2008, 28 March 2008

- 4.22 Optus agrees with the Department's statement that providing universal access to basic telecommunications at an affordable level is an important social objective. The Department also states that the achievement of social objectives "may not necessarily depend on the use of retail price controls."⁵² Optus submits that social policy should not rely on the use of retail price controls.
- 4.23 There is a general consensus that the most efficient approach to meeting social equity needs in the community is through specific targeted and transparent measures. This was acknowledged by the Department by its references to the Productivity Commission's statements.⁵³
- 4.24 Optus submits that there are a range of specific measures that can be utilised to meet a number of needs in the community, such as affordability and payment flexibility. Examples of targeted measures may include the following:
- The availability of products suited to a variety of consumer groups (eg, pre-paid products without contracts);
 - Product discounts for persons in certain welfare categories (eg, Pension discounts);
 - Financial hardship assistance (eg, debt management for unpaid bills); and
 - Short-term credit support (eg, Optus' \$3 mobile account IOU service).
- 4.25 These measures can be effectively delivered in a competitive environment and where appropriate, supported by government funding. Government funding is the most efficient way to fund social policy, since it causes the least distortion compared to industry or provider funding which could alter production decisions.
- 4.26 In the context of universal service, Competition Economics Group (CEG), a consultancy to the Global Mobile Suppliers (GSM) Association stated that:
- Funding Universal Service through general taxation has substantial advantages from a public policy perspective. The use of general taxation can result in the welfare cost raising the required funds being a fraction of the welfare cost that would result from raising the same revenue through an industry fund. Funding Universal Service through general taxation can also be expected to be more equitable, competitively neutral, and politically transparent than an industry fund.*⁵⁴
- 4.27 By extension, the provision of general taxation funded measures is also more efficient compared to regulatory obligations on one provider. Moreover, the obligations imposed on Telstra to make certain products available and at specific prices to assist those with financial needs may even damage competition should it continue.
- 4.28 This is because Telstra receives significant intangible benefits as the incumbent. The continuation of financial assistance programs entrenches the public view that Telstra is the incumbent and the associated positive publicity for offering such products, services and pricing for which it is obliged. In the context of USO provision, there has been a growing recognition

⁵² The Department of Broadband Communications and Digital Economy, *Retail Price Controls Review: Discussion Paper*, 21 October 2011, p.8

⁵³ The Department of Broadband Communications and Digital Economy, *Retail Price Controls Review: Discussion Paper*, 21 October 2011, p.8

⁵⁴ CEG, *Reforming Universal Service Policy: A Report for GSM Europe*, February 2008, p.56

that intangible benefits represent significant value to an incumbent and so should be taken into account when calculating the costs of provision. For example, the ITU notes that:

Some regulators have estimated that the intangible benefits of USO provision (such as brand recognition, call revenue to low USO clients, positive publicity and marketing), though of uncertain size, are great enough to outweigh the tangible net costs.⁵⁵

- 4.29 A similar effect might well arise from RPCs given the status of the incumbent in delivering services deemed important by the Government (such as special rates on line rental and untimed local calls).
- 4.30 Accordingly, Optus submits that social policy objectives should be pursued in a manner that promotes competition and is efficiently funded. The continuation of asymmetric regulatory obligations does not promote competition nor does it most efficiently address the goals of social equity.

⁵⁵ ITU, *Administrative allocation of universal service funding*, Module 4 Universal Access and Service, Section 3.1.3, ICT Regulation Toolkit

Appendix A: Response to Specific Questions

To what extent are retail price controls beneficial to consumers? In what circumstances are they needed as a substitute for competitive market pressures? To what extent do they limit competition?

1.1 Retail price controls are only beneficial to society – including consumers – if the benefit of avoided inappropriate market behaviour outweighs the costs of the controls. This may be the case if retail competition is incapable of delivering appropriate services and service pricing. That is, retail price controls are needed as a substitute for competitive market pressures where there is insufficient tension between rivals.

1.2 It is, however, not necessary that competition be perfect in order for it to deliver appropriate outcomes for consumers. This was a key finding of an expert review of the international evidence commissioned by the Australian Energy Markets Commission (AEMC) in its review of retail market competition in energy markets. The AEMC stated that:

Professor Yarrow's [the AEMC's retained expert] review of the evidence from overseas countries where price regulation has been removed, often prior to the emergence of fully effective competition, finds that consumers have not been harmed and markets have worked to allocate resources and to deliver price and non-price benefits to consumers.⁵⁶

1.3 Competition is limited by price controls to the extent that they can restrict pricing flexibility and act as a disincentive for innovation. The AEMC also articulated this effect:

Regulated prices will generally either be too low, deterring investment and innovation, or too high, to the detriment of consumers. Either way, consumers are harmed in the long run – if prices are too low to provide an adequate return on investment and an incentive for innovation, in the long run it is consumers who will suffer from insufficient and poor quality supply. Furthermore, retail price regulation imposes administrative and compliance costs on Government, and hence tax payers and consumers, and market participants.⁵⁷

1.4 Optus discusses the market distorting effect of RPCs on competition and efficient pricing in greater detail in section 4.

Once a more effective competitive market emerges via the NBN, will retail price controls still be necessary?

1.5 The NBN represents substantial structural reform that, provided the relevant regulatory arrangements are appropriately developed and strictly applied, should invigorate retail market competition. Further the interim policy developments will ensure that improvements in the state of competition in the wholesale market need not wait until the NBN is built.

1.6 The Government should therefore have the courage of its convictions and be confident that the NBN reform will deliver its objectives – the objectives for which the retail price controls would otherwise have been required. It should start the process of rolling back the RPCs.

⁵⁶ AEMC, *Review of the Effectiveness of Competition in Electricity and Gas Retail Markets in Victoria*, Second Final Report, 29 February 2008, p.6

⁵⁷ AEMC, *Review of the Effectiveness of Competition in Electricity and Gas Retail Markets in Victoria*, Second Final Report, 29 February 2008, pp.5-6

Section 2 provides a more detailed discussion of the effects of the NBN.

Should price controls remain in place for services over the copper network during the NBN deployment?

- 1.7 Optus considers that RPCs are no longer required. We have long argued that the focus of Government attention should be at the wholesale level in supporting competition and not at the retail level (albeit there is the option of safety net arrangements). The Government's recent policy changes to support wholesale market development in the lead up to the NBN should give it confidence that the competition in the retail market will further improve as a result and deliver appropriate outcomes for consumers.
- 1.8 However, if the Department is minded to adopt a more cautious approach and seek to retain some element of retail level protection, it should consider a progressive roll back of the RPCs in parallel with the NBN migration, on an exchange by exchange basis. At the very least, the RPCs should no longer apply to more competitive segments of the market such as urban areas and business customers.
- 1.9 A more detailed assessment of the interim arrangements and their likely effects is included in section 3.

If price controls are retained, which key services should be regulated?

- 1.10 If the Department decides to retain some element of retail level protection for consumers, it should nevertheless remove business services from the RPC regime. Business markets are often considered to be relatively competitive compared to retail markets (provided regulated wholesale access to resale services and ULLS remains in place). In addition, the exclusion from the RPC regime of CBD and metropolitan areas should be considered. These markets are demonstrably competitive and are likely to remain so, provided regulated wholesale access to ULLS and resale services remains in place.
- 1.11 Moreover, there is some question as to the continuing relevance of some product constructs which form a part of the RPC, such as the untimed local call. Therefore, should the price controls be retained, a review of the relevance of the baskets should be undertaken.

If retail price controls are retained on the copper network, should they be also be applied to services provided via the NBN fibre network? If not, why not?

- 1.12 If retail price regulation is retained on the copper network they should not also be applied to services provided via the NBN fibre network. Whilst there is little justification for the retention of RPCs on copper, the case for their continued application on fibre is even weaker.
- 1.13 Overregulation can result in inefficiencies which may prevent the market from functioning properly and impose unnecessary regulatory burdens on the industry. The burden of regulatory compliance has long been recognised as a problem. For example in 2005 the Government announced the appointment of a Taskforce⁵⁸ to identify practical options for alleviating the compliance burden on business from Government Regulation.⁵⁹

⁵⁸ The Government, Rethinking Regulation: Report of the Taskforce on Reducing Regulatory Burdens on Business, Australian Government's Response

⁵⁹ As part of the review, the Government asked the Productivity Commission (PC) to undertake over five years, a series of annual reviews of the burdens on business from the stock of Commonwealth regulation.
<http://www.treasurer.gov.au/DisplayDocs.aspx?pageID=&doc=pressreleases/2007/007.htm&min=phc>

- 1.14 Regulation should therefore only be imposed when effective competition is absent in the relevant markets. Where an effective regulatory access regime already exists at the wholesale level, this will generally be sufficient to ensure an appropriate level of competition in the retail market; in such circumstances it will not be necessary to impose a further layer of regulation.
- 1.15 This is supported by the view of the European Commission which stated in its recommendation on regulated access to Next Generation Access Networks (NGA) that regulated wholesale bitstream access is unnecessary if there is already effective competition in physical network infrastructure access:
- where physical access remedies suffice to create effective competition, wholesale bitstream access could be removed...*
- [c]ertain arrangements for co-investment by several players could result in the lifting of ex ante regulation⁶⁰*
- 1.16 Similarly, if and when there is effective competition at the wholesale level in Australia, retail regulation will be unnecessary.
- 1.17 Optus considers that the supply of NBN-based wholesale services will be effectively competitive. Besides Telstra⁶¹, Optus, AAPT⁶² and Nextgen⁶³ have already announced publicly that they will acquire NBN Layer 2 services both as a wholesaler and reseller. The substantial number of providers also illustrates that the level of concentration in the wholesale market of Layer 2 service is unlikely to be high, which will place a competitive constraint on providers of NBN-based wholesale products. There have also been 28 retail service providers signed up with the NBN.
- 1.18 Optus discusses the expected effect of the NBN on wholesale market competition in section 2.

If price controls continue in future, should they apply to all service providers? Would this restrict competition by smaller service providers?

- 1.19 Retail price controls should not continue into the future. However, should it be necessary for them to remain in place during the transition phase, they should continue to apply to Telstra only, as the owner of the copper access network.
- 1.20 Introducing a regulatory requirement on smaller providers would be restrictive and unnecessary. Competition by smaller providers would be adversely impacted, since the imposition of such a regulatory burden can divert limited resources from necessary business activities. It could also have the affect of limiting innovation.
- 1.21 Optus provides an overview of some of the harmful effects of retail price controls in section 4.

⁶⁰ European Commission, Commission Staff Working Document, Accompanying document to the Commission Recommendation on regulated access to Next Generation Access Networks (NGA) 2010, p21

⁶¹ Osborne, Glenn. "Straddling Both Worlds: A Telstra Wholesale Update", Speech, Comms Day Summit Sydney, 30 March 2011

⁶² Edwards, David, "AAPT to build on NBN aggregator role", *Communications Day*, 4 July 2011

⁶³ Wilton, Petroc. "Nextgen details new NBN wholesale strategy", *Communications Day*, 15 June 2011

How should low-income users be provided with equitable access to affordable basic telecommunications services and how should such access be delivered and funded?

1.22 Equitable access to affordable services should be provided as much as possible in a flexible and competitive manner via separate, targeted government policy. For example, through the offering of:

- Products suited to a variety of consumer groups (eg, pre-paid products without contracts);
- Product discounts for persons in certain welfare categories (eg, Pensioner discounts);
- Financial hardship assistance (eg, debt management for unpaid bills); and
- Short-term credit support (eg, Optus' \$3 mobile account IOU service).

1.23 These measures can be effectively delivered in a competitive environment and where appropriate, supported by government funding. Government funding is the most efficient way to fund social policy, since it causes the least distortion compared to industry or provider funding which could alter production decisions.

1.24 Optus discusses options for the continuation of social equity policies in section 4.

What is the ongoing role for LIMAC or should it be replaced, and if so, by whom?

Optus reiterates that equitable access to affordable services should be provided as much as possible in a flexible and competitive manner via separate, targeted government policy. It should be funded through general taxation revenue.

This means that the role of LIMAC should be refocused in order to adhere to a transparent and contestable approach that will enable appropriate suppliers to provide assistance to individuals who require it.

Is there a long-term need for a legislative obligation to have regulations or other arrangements in place to provide untimed calls within and between adjacent Extended Zones?

1.25 Optus considers that the relevance of Extended Zones is quickly diminishing. This is because, as discussed in section 3, the traditional product concepts such as long distance and local distance calling are unlikely to continue into the future given technological changes and intensifying competition from low cost alternative providers (eg, VoIP).

1.26 Moreover, the ACCC has already recommended the removal of extended zones from the RPC:

*Consideration be given to removing the price control arrangements as they apply to "extended zones" if these requirements merely replicate contractual arrangements Telstra has with government.*⁶⁴

What is the best option for meeting this obligation?

1.27 Optus does not believe this obligation will remain relevant in future. However, should the Government consider that certain products or services are necessary on the grounds of social

⁶⁴ ACCC, *Review of Telstra's price control arrangements – an ACCC report*, March 2010, p.51

equity then they should be provided through a comprehensive, transparent strategy that allows for contestability where appropriate.

- 1.28 Government funding is the most efficient way to fund social policy, since it causes the least distortion compared to industry or provider funding which could alter production decisions.
- 1.29 Section 4 provides an overview of how social policy is best pursued in a competitive environment.

**What regulatory oversight is required for the effective operation of the retail price controls?
What role should the ACCC play in this?**

- 1.30 Should the Government continue to require RPC, Optus considers that the ACCC is the appropriate body to be responsible for regulatory oversight. Effective operation of the controls would also require clear and enforceable consequences for any breaches.

What transitional arrangements might be required should price control arrangements be changed?

- 1.31 Optus' main proposal (removal of the RPCs regime upon expiry of the current controls) does not require transitional arrangements. This is because it does not impose new systems or processes (which might require training to ensure understanding and compliance and thereby necessitate transitional arrangements).
- 1.32 Optus' alternative proposals (the phase-out of RPCs in more competitive areas or as the NBN is rolled out) should be viewed as 'transition' arrangements for the interim period before the full removal of the RPC regime.
- 1.33 Changes to the social equity requirements would require a separate review to assess any ongoing requirements, the most effective way to deliver them and what transitional arrangements, if any, would be necessary.