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### **National Broadband Network (NBN): Legislative Framework for the NBN Company**

The Australian Information and Communications Technology in Education Committee (AICTEC) welcomes the opportunity to comment on the legislative framework for the National Broadband Network company. AICTEC is a national, cross-sectoral committee that advises Australian, state and territory Ministers for education and training through the Ministerial Council for Education, Early Childhood Development and Youth Affairs (MCEECDYA) on the economic and effective utilisation of online technologies in Australian education and training.

The Government has committed to a number of fundamental education and training reform initiatives that aim to support the long term productivity and economic growth of Australia through facilitating the integration of information and communications technologies (ICT) to support teachers and students to communicate, collaborate and access education resources. Affordable, high speed broadband connections – to educational institutions and to students and learners in their homes and workplaces – will be essential if this potential is to be realised.

It is important that the competition regulatory framework, in particular access and structural regulation, provide strong incentives for the provision of sufficient capacity for the needs of the education sector under affordable and predictable terms. This is essential to encourage full utilisation of broadband connections and, thereby, deliver the educational outcomes available in a digital world. Depending on network architecture, this is most likely to be achieved by provision of access to the dark fibre (or wholesale bitstream services) by network managers independent of the fibre owner/operator.

It is not possible to forecast what speeds or even what network services may be required in the longer term. Therefore, what is required for the education sector is a platform for innovation, which essentially depends on open access and competition.

AICTEC's views on regulation of the NBN were outlined in its submission made in response to the Department of Broadband Communications and the Digital Economy discussion paper: *National Broadband Network: Regulatory Reform for 21st Century Broadband* (copy attached).

That submission details the issues faced by the education sector and issues which the sector views as important in a regulatory regime applying in the lead-up to the establishment of the NBN and once NBN is in operation. These matters are summarised below and set out in the attached submission, in particular in sections 4.1 and 6.

## **Access Regimes**

AICTEC welcomes the Government's commitment to legislative amendments to establish an access regime to facilitate open access to the NBN.

Access arrangements are likely to affect both capacity available and terms and conditions of utilisation of this capacity, which will in turn affect the affordability and availability of services for educational institutions and students in households and workplaces.

Access arrangements will need to be such that service providers are able to offer pricing arrangements which are more affordable and predictable. The access model needs to enable service providers to offer a range of pricing models including pricing that is not necessarily volume related. Volume related charging is very difficult for schools systems to manage as it reduces their ability to control their budgets. Schools need access to high speed broadband services on terms and conditions that are predictable, affordable and sustainable in the longer term. Volume based pricing also stifles innovation and the adoption of modern teaching and learning practices by, for example, discouraging use of media rich content.

The education sector's desired outcome is that the various education sectors' service providers, are able to obtain, on affordable terms, access to dark fibre, or rights to managed bandwidth, such that sufficient capacity is available for their needs, which may include the establishment of a common backbone network to which jurisdictional and sectoral networks as well as individual schools could connect. It is recognised that not all education providers will choose this route - some may indeed prefer to purchase a service that meets their individual needs from a service provider. This requires that the regulatory regime is able to accommodate a range of options (from access to dark fibre through to some form of managed service) in an open and competitive way to create innovation and provide flexibility to the education sector.

Strong open access provisions in the regulatory framework relating to existing fibre, to fibre installed as part of the NBN and to any non-NBN fibre installed in the future are all critical.

The regulatory regime will need to foster competition at all levels. For example, if the fibre network owner is only permitted to provide dark fibre, there will be the potential for different layers of service providers eg. the fibre network provider, a number of wholesale network providers (like our current carriers) and a number of retail service providers (like the current carriage or ISPs). It will be important that the regulatory regime provides incentives for competition at each of these levels either through access requirements, structural separation or rules relating to anti-competitive behaviour.

Education stakeholders share the view that the current access regime's negotiate-arbitrate model is very slow, cumbersome and open to gaming (obstruction). Should consideration be given to other models which involve consultation with consumers of broadband services, it would be appropriate to include the education and training sector which is a significant user of communications services with particular needs.

In addition it will be important that aggregation points have the physical capacity to accommodate the equipment required by service providers and that an access regime (for facilities) includes access to space for equipment.

### **Other obligations**

The education and training sectors require effective communications between institutions and with students, parents and the community across Australia. The sector supports the concept of a Communications Service Standard for all communications services as proposed by the *Regional Telecommunications Review Report: Framework for the Future*, noting that the proposal involves flexibility to determine future standards where necessary. For example, this may allow requirements relating to the connectivity of schools across Australia, which in current circumstances could require connections of 100Mbps to schools in towns of populations greater than 1000 and connections of at least 12Mbps elsewhere.

AICTEC appreciates being consulted on these issues and would welcome any further opportunity to comment on legislative proposals relating to the NBN.

Yours sincerely

A handwritten signature in black ink, appearing to read 'E. Arthur'.

Dr Evan Arthur  
Chair, AICTEC

30 July 2009