

Submission to the ACCC by Kenneth Curry B.Eng (Elec)
Re:- NBN/ Optus agreement and NBN / Telstra agreement..

1. Main Issue:

NBN is seeking authorization by the ACCC (main points) for:-

1. The establishment of a Cartel which includes Optus & NBN
2. An arrangement with Optus for exclusionary provision by NBN of Broadband Layer 2(wholesale) services
3. Migration of Optus customers to the NBN.
4. Optus to be paid to migrate its customers (voice, broadband & Content) to the NBN (a bribe).
5. Optus to decommission its HFC cable network.
6. Optus to agree not to compete with the NBN with its HFC network.
7. Optus to agree not to compete with the NBN using its mobile wireless broadband
8. Optus agrees not to market its potentially competing mobile wireless Broadband services against the NBN
9. 20 year term for the Authorization
10. the NBN is seeking similar agreements with Telstra to decommission the Telstra HFC and copper networks & transfer customers to the NBN.

2. Facts

Published data for 2010 (page 23 on the NBN submission) indicates there are 5,391,000 broadband subscribers in Australia.

NBN is installing an Australia wide Optical Fibre network with a 100Mb/s service capability to serve 93% of the of the Australian population at an estimated cost of \$45 billion.

This rollout is planned to be complete by 2021.

Optus and Telstra provide HFC based competing services broadband at up to 100MB/s.

Telstra provides HFC cable broadband services at up to 100Mb/s in & around the regions of Brisbane , Sydney, Melbourne, Adelaide & Perth.

This HFC network is low maintenance and represents a sunk capital cost.

This HFC network passes approximately 2.7 Million consumer premises and is connected to 400,000.

Telstra has approximately 1,993,000 non HFC serviced customers the large majority of which would be ADSL

Optus provides HFC cable broadband services at up to 100Mb/s in & around the regions of Brisbane , Sydney & Melbourne,

This HFC network is low maintenance and represents a sunk capital cost.

This HFC network passes approximately 2.2 Million consumer premises and is connected to 400,000.

Optus has approximately 486,000 non HFC serviced customers the large majority of which would be ADSL.

Telstra currently has exclusive telecommunications wiring service arrangements in most multi dwelling units which blocks Optus cabled services to consumers in these premises- A matter for future ACCC review.

Non Telstra/Optus retail broadband providers such as iiNet, TPG, and others service approximately 3,380,000 consumers the large majority of which would be ADSL via the Telstra copper "Last Mile".

The ACC has ruled that Wireless broadband services provided by Telstra & Optus are to be able to compete freely with the NBN.

Foxtel claim about 7 million viewers with 1.6 Million connections via the HFC network the large majority of whom would have service delivered over the HFC. Many have a high speed broadband data connection embedded in their set top boxes.

3. Situation

Approximately 10 Million of the Australian population have access to a HFC 100Mb/s Telstra network and approximately 8 million (a sub group of the 10 Million) have access to the competitive Optus & Telstra HFC networks.

Both Telstra & Optus provide product bundles which incorporate, voice line rental , mobile & fixed line calls Fast broadband & high data allowances.

Eg. Optus offers a HFC based service bundle of , voice line rental with extras, unlimited mobile & fixed line calls ,20 Mb/s & 500Gb /mth broadband all for \$109. mth.

The 20Mb/s broadband component is estimated at \$30/mth.

Telstra offers similar bundle deals in a highly competitive market.

4. HFC Past Present & Future

It is useful to review the market for & technical broadband capabilities that was available in 1997,

Is available today in 2012, and

what might be available in 2027 with the HFC cable network .

1997,

Telstra had just begun to offer HFC broadband cable services at 1Mb/s.

Most consumers used dial up limited to 56Kb/s on a copper circuit and paid a local call for every connection + the subscription to the ISP there was no bundling.

2012

5,391,000 broadband subscribers in Australia.(2010)

900,00 have HFC broadband available up to 100Mb/s
4,491,000 non HFC subscribers , the majority would be using ADSL at a maximum speed of 3Mb/s and an average data use of 2GB/mth.

Mobile data network offer up to 3Mb/s data speeds & 2 Gb/.mth data allowance) are bundled at an equivalent \$10 /mth with and may be the service of choice as backhaul is installed and congestion minimized in the mobile data network.

Internet usage is accelerating driven by smart phones, tablet & notebook computing

2027

Mobile broadband networks are endowed with more spectrum & reinforced data infrastructure allowing higher data speeds,

HFC networks are widely distributed overseas & hence have sufficient critical mass and support from some of the worlds top communications companies so as to ensure the development of higher data rates over the next 15 years,

Wikipedia (<http://en.wikipedia.org/wiki/DOCSIS>) notes that DOCSIS 3.0 is the current HFC worldwide data transfer standard supported by Harris, BigBand Networks, Broadcom, Cisco, Conexant, Correlant, Harmonic, Intel, Motorola, Netgear, Technicolor, Terayon, and Texas Instruments amongst other communications technology leaders.

In the USA “Shaws Cable” has announced a 250Mb/s HFC based download service speed and in the UK Virgin Media will begin trialing in April 2012 a 1.5Gb/s download / 150Mb/s upload service.

It is clear that HFC networks have a bright & much enhanced performance future that is already being implemented & trailed in 2012.

Since there has already been a 100 fold increase in HFC data rates in the 15 years from 1997 to 2012 and currently trials are being undertaken at a 15 fold increase on current 100Mb/s HFC services a further 100 fold increase in HFC data speeds to 10Gb/s by 2027 is entirely within the bounds of probability.

A Hypothetical Example

2 existing Highway companies have built 6 lane super freeways.

The Telroad Co. connects Perth, Adelaide, Melbourne, Sydney and Brisbane. It's a fantastic highway system capable of 100Km/hr and the technology is available now so it can be upgraded inexpensively in the future to 1500Km/hr

The Opsroad Co. connects Melbourne, Sydney and Brisbane. It's a fantastic highway system capable of 100Km/hr and the technology is available now so it can be inexpensively upgraded in the future to 1500Km/hr.

It's a little more modern than the Telroad Co. highway so it can be upgraded more cheaply.

They are high quality construction so have little debt and require little maintenance

The 2 roads run in parallel and compete for traffic & customers by offering discounts & deals and use these deals to leverage other business for each company.

A new Company Nbread Co. is going to build a 6 lane system that parallels the existing roads by 2021 and in 2021 promises to offer a 100km/hr speed limit.

It will be vastly more expensive and cost at least \$45Billion which is funded by loans.

Nbread wants to have all the current and future highway traffic of Telroad and Opsroad .

Nbread wants to eliminate them as potential low cost & higher performance competitors otherwise it will be uneconomic and technologically uncompetitive and be unable to attract customers.

To do this it will buy the Telroad & Opsroad highways and destroy them as the Nbread road is built in the same locations so that travellers will have no option but to travel on the sole Nbread highway (monopoly) available.

Additionally Nbread is building a 6 lane 100Km/hr super highway to almost all the country towns across Australia whether that is warranted or economically justified or where less expensive roads would have sufficed.

To help pay for these uneconomic roads elsewhere and having a monopoly on the old Telroad & Opsroad routes (which are the most profitable and most used in the country) it will charge a premium price on these routes (otherwise known as a Cross Subsidy) so that overall it is profitable.

Unfortunately travellers on the new Nbnroad as its rolled out by 2021 will be generally limited to a 100Km/hr speed limit and pay higher tolls than on the previously competitive roads. Additionally the Telroad & Opsroad roads's would have most likely been inexpensively uprated to 1500Km/hr.

Responses to NBN Co Submission of 20 Jan 2012

Response to Section 6 Authorisation Statutory Requirements.

CI.106 Optus service to multi dwelling units.

Telstra currently has exclusive telecommunications wiring service arrangements in most multi dwelling units which blocks Optus cabled services to consumers in these premises-

This is a matter for future ACCC review and readily mitigated.

CI.108 Optus has vigorously competed with Telstra in bundled products based on the HFC. My personal experience has been that Optus provides superior customer service to the notoriously poor Telstra customer service and significantly better value.

The upshot is that Optus HFC (with a later entry to market, a smaller footprint and little multi dwelling customers) has 500,000 customers vs Telstra's 400,000 .

It is only in the last 12 mths that Telstra has offered comparable value bundled products so as to stem the continuous erosion of the Telstra HFC customer base.

CI. 109 Optus has recently upgraded its HFC download capability to 100Mb/s and offers this as a bargain \$15 /mth upgrade to its higher end 20Mb/s bundled services.

CI. 110 The Optus HFC is a low cost low maintenance network that services a top tier retail market.

It can be readily updated to much higher data rates.

As an independent competitor to the NBN retail providers (including Telstra) who will be constrained to 100Mb/s when the NBN service is finally delivered in 2021 Optus has many business options through increased performance and leverage to hold & acquire new customers especially as Telstra is constrained by the limited NBN 100Mb/s capability.

The fact that Optus has chosen a low profile marketing and price competition with its much larger and better resourced Telstra competitor is a prudent business strategy.

CI. 111 I disagree as a competitive and ongoing Optus HFC network targeted at bundled high value communications products and offering much faster data speeds and data allowances that the NBN would act as an effective market limit on the NBN & its resellers.

Cl.114 all the benefits accrue to the NBN if the Optus HFC is decommissioned but not necessarily to the Australian customers of broadband within the HFC footprint.

Cl.116 Best argument yet that Optus HFC customers will receive lower prices if the Optus HFC network is retained & especially if the Telstra anti competitive cabling restraint in multi dwellings is removed.

Cl.117 Cherry picking – a new and unknown commercial term for a network that has predated the NBN by 15 years.

Threats & intimidation to delay NBN rollout where there is competition- This is the latent behaviour of a Bully Monopolist where NBN reveals the behaviour that might be expected of a monopoly provider in areas where detailed oversight & regulation is weak or impractical.

Cl.118 The NBN having established that retaining the Optus HFC would result in lower costs for consumers within the Optus HFC footprint now asserts that it will have to charge customers more elsewhere where it has a monopoly . This should be a matter of great concern to the ACCC as it already demonstrates the Monopolist Mindset that is already in place at the NBN.

Cl.119. a NBN already acknowledged that the Optus HFC service is likely to be cheaper than the NBN supply.

The NBN says it will delay rollout where the Optus HFC is deployed (monopolist behaviour) .

Reality is NBN will have an uncompetitive product to Optus HFC and so an NBN rollout would be uneconomic.

The result of the Optus HFC continued operation will be real market competition at the retail level.

Optus already supplies attractive price & services Fusion bundles that NBN resale providers would be unable to match.

It is very arguable that the NBN offerings will be inferior to that available currently from Optus and that in the next 9 years to 2021 there is a clear technological upgrade path available to the HFC .

Since the Telstra HFC network is unlikely to be decommissioned where the NBN is not rolled out the probability of there being abandoned adsl customers unable to access a HFC broadband is remote.

It's a hollow and monopolist argument by the NBN.

Cl.119. b. Optus would have a high profit sunk cost network able to leverage all its communications products including mobile as high value bundles and have a distinct market advantage against NBN resellers.

Cl.119. c A factualness and specious proposition argument devoid of fact and akin to "motherhood"

Cl.119. d Irrelevant as Optus HFC customers will receive lower prices and better technology & services.

Cl.119. e Such a situation would increase the Optus HFC penetration resulting in lower costs for Optus and an incentive to enhance the performance of the HFC network.

Cl.120 I interpret this clause as NBN issues of self interest unrelated to customer service.

500,000 Optus HFC customers is a meaningful market presence & hardly “Cherry picking” whatever that term really means in a commercial & customer service context.

Response to Section 7 Public Benefits.

In summary I interpret these arguments as being about the benefits perceived by & to the NBN and these benefits are entirely devoid of benefits to the broadband consumer or the public in general.

Cl.122, it is NBN who is engaging in unnecessary duplication and the environmental vandalism of adding another set of cables under or above our streets past the 2.2 million premises already passed by the Optus HFC network,

Cl.123 accurately projecting the public benefits in the 9 years to the 2021 NBN rollout / completion or the 20 years life of the proposed NBN Optus agreement is near impossible in the face of fast moving technology advancements.

Most likely the fixed technology formulae such as proposed for the NBN lacks the ability for urgent uptake of new deployment technologies.

It has a high risk of stranding Australia in a technological wilderness of an outdated technology and a monopolistic wholesale cost plus vendor with no incentive to change or adapt for the consumers benefit.

Cl.125 & Cl.126 the benefits that accrue to government policy though laudable are not correlate to public benefits or benefits to the consumer.

Cl.127 noted

Cl.128 noted

Cl.129 Whilst the establishment of the NBN as a monopoly Broadband supplier at the wholesale will undoubtedly benefit the NBN it is unsupported that this will actually be of benefit to the consumer.

It is clearly acknowledged by the NBN that retention of the Optus HFC network will be of significant cost benefit to consumers serviced by the Optus HFC network.

One might assume that similar benefits would accrue to consumers serviced by a retained Telstra HFC network as there would then be 3 broadband cable competitors Telstra & Optus would be vertically integrated and NBN wholesale.

It is a reasonable assumption that in a non cartel and competitive free market that NBN would have little opportunity for Monopolistic behaviour within the footprints of the 2 HFC networks.

The NBN submission clearly demonstrates that it will exhibit Monopolistic behaviours using, for example ,delayed rollout in Optus HFC serviced areas to pressure consumers and hence political processes if the Optus HFC is retained as a competitor.

Such threats are only possible where a monopoly exists and the monopolist is willing & confident to exercise that monopolistic power and the monopolistic behaviours are at a detail level that the ACCC might find difficult to regulate & monitor.

Cl.130 It is already established that the retention of the Optus HFC broadband network will result in lower prices for the 500,000 premises already connected to the Optus HFC and the potential 2.2 million within that footprint.

Additionally there is a large upside for higher performance low cost services on the HFC for that potential 2,2 million

This number would increase substantially if the possibility a determination that would free Optus to service the multi dwelling buildings currently tied exclusively to Telstra is considered.

Thus a significant actual & potential group of consumers in excess of 2.2 million would experience significant detriment under the scenario of a decommissioned Optus HFC.

The other NBN arguments relate to “Right scaling” the NBN (ie the benefits accrue to the NBN and not the public) so it is able to be competitive network wide as well in the areas serviced by the Optus HFC network.

Cl.131 Frontier Economics report review to come later.

Cl.132 No comment

Cl,133 noted

Cl.134 noted Objective

Cl.135. The reality is competition at retail and a cost plus monopoly (NBN)at wholesale with the decommissioning of 2 competing HFC networks .

The removal of these 2 sunk cost HFC networks + the high cost of entry to the market and the sought 20year authorization would ensure that the NBN has a 20 year + monopoly of wholesale broadband.

It *is* acknowledged that effective competition in an open market is the best insurance against monopolistic/cartel behaviour.

Whilst that competition may occur in the retail sector of the NBN it is only 1 part of the overall cost to the consumer and be a public benefit if that sector alone is considered .

When the overall costs are considered the NBN at inception will be more expensive that the existing Optus HFC service & possibly a retained Telstra HFC service and has an immense debt to service .

To shut down 2 existing & adequate low cost and sunk cost Broadband networks with a long term and positive technological growth potential and replace those with a similarly capable but MONOPOLISTIC universal and higher cost network must be described as a DETRIMENT for the 2.7million /2.2 million potential customers within the existing HFC footprint.

Additionally there is the high risk of technological stagnation and an inability to adapt to fast moving technology changes & consumer demands when there is only a single NBN fibre to the premises strategy in place.

Diversity of broadband delivery strategies by retention of the Optus HFC allows market forces & profitability to determine better outcomes for potentially 2.2+ million consumers of the 5.6 Million Broadband consumer base.

Reliance on regulatory oversight of a monopoly NBN who already exhibits monopolistic & aggressive behaviour (re NBN rollout) in these submissions has been shown to be an imperfect control when compared open market competition.

Additionally it is not assured that the existing ADSL consumers within the HFC footprints will migrate to the NBN as a large proportion of these ADSL consumers are subscribers to the “cheap & cheerful” base level broadband services which may be expected to remain available on the Optus HFC network.

It is highly probable that these very cost sensitive consumers will reject the high cost NBN services in favour of a retained Optus HFC network or low cost \$10/mth mobile data services which currently offer 2gb data /mth & a mostly adequate data rate that is roughly comparable with ADSL1.

These mobile data services are currently being upgraded in the Telstra & Optus mobile data networks due to intense consumer demand and fierce competition for consumers between Telstra & Optus .

In the past 10 years Optus has been a low profile price & value leader with its “Fusion” bundles offering significantly higher consumer value than Telstra whether delivered over the HFC or ADSL interface.

I have an ongoing personal experience in comparing the value & services between Telstra & Optus HFC services having been connected to both.

I annually review the Optus Fusion plans that are in competition with Telstra & others and my experience has been that the Optus fusion plans offer significantly greater value for money.

The NBN model for broadband ignores the fast moving structural shift by consumers away from fixed communications & data to mobile devices for work & personal use.

This is driven largely by the consumer & business appeal of devices such as Apple I Phone ,Blackberry, tablet , notebook & laptop portable computers all of which have

seen huge drops in price alongside spectacular increases in functionality & computational power over the last 2 years.

Optus has an established track record of being an effective retail competitor in Mobile and broadband by offering “value & performance” bundles.

An Optus without a HFC network to leverage its bundles would be just another NBN reseller and unlikely to be able to offer such HFC leveraged “value” bundles.

It would clearly lessen competition at the retail & wholesale level, result in higher retail prices within the HFC footprint and be a net public detriment.

Decommissioning the Optus HFC networks will result in increased costs of service to 500,000 Optus and possibly 400,000 Telstra existing and 2.2+ Million & 2.7+ million potential consumers is not a public benefit as the Optus HFC forms a significant & compelling part of the actual and potential broadband delivery infrastructure.

Cl.136 equivalence in access is only relevant to the retail segment of broadband delivery.

In a NBN wholesale monopoly there is no wholesale equivalence in access.

Cl.137 Government policy may be laudatory but it and consumer benefit by decommissioning the Optus HFC and establishing a NBN wholesale broadband monopoly are not a given.

Cl.138 my prior comments refute this as a public benefit and argue that this NBN-Optus agreement establishes a NBN monopoly that will be difficult for the ACCC to oversight, will be irreversible, will eliminate competition to the NBN delivery model and is for the existing Optus HFC customers a clear cost & future technology detriment.

Cl.139 The structural separation of Telstra is not reliant on the decommissioning of data delivery by the Telstra HFC or the decommissioning of the Optus HFC network. All the disabling of HFC based broadband services & the complimentary Non compete & migration agreements accomplishes is the entrenchment of an irreversible NBN wholesale monopoly and the absolute removal of existing effective market competitors to the NBN.

It's a huge benefit to the NBN and the removal of effective sunk cost and currently 100Mb/s capable with future superior technology competitors means there is no market forces to ensure NBN is operated with efficiency and to the benefit of consumers.

Cl.140 This is a threat by the established Monopolist NBN to disadvantage a significant 2.2+ million group of consumers within the Optus HFC footprint. This threat is clearly an important Public Detriment.

Cl.141 to Cl.152 these submissions have been mostly dealt with elsewhere but focus on the NBN's profitability and the benefits to NBN rather than a benefit to consumers or the public at large.

In summary the NBN covets the high margin Optus HFC & Telstra HFC consumers and intends once its monopoly is confirmed to increase the prices to these consumers to ensure its overall profitability.

This is an abuse of monopoly power and a clear detriment to these 900,000 Telstra & Optus HFC consumers

Cl.153 to Cl.165 Enhanced retail competition within the NBN reseller retail community is likely to occur.

However this is not the same as reduced retail prices and the coincident supply of enhanced technology to benefit consumers

The benefits noted here mainly accrue to the NBN via its monopoly status and disabling of competitive networks and as such cannot be considered a public benefit. It is already established that the NBN expects retail prices to increase above that which consumers currently experience within the HFC footprint once it has rolled out its network duplication and decommissioned & disallowed any effective HFC competition.

The NBN rollout is planned as an out- in deployment & scheduled to complete in 2021.

This is 9 years away and a very long timeframe in the technology business where technical capability typically doubles every 2 years and is supplied at half the cost . Thus the NBN plan and the long implementation period carries an extreme risk that its current technologies will be rendered obsolete or irrelevant by 2021.

The claim that the NBN will offer superior services to the HFC is irrelevant to the current majority of customer needs and its cost/performance relevance in 2021 is highly uncertain and unquantifiable.

The so called retail competition benefits are a long way off for retail consumers and carry a high risk of non delivery.

There is again a threat to disadvantage consumers in the Optus HFC footprint if the NBN monopoly is not allowed and the Optus HFC continues as an effective market competitor at retail.

Cl.166 to Cl.178 Many of the technical details are correct with the exception that the Optus HFC cable is not readily upgradeable in a cost effective manner.

Many of the NBN claims of future public benefit fail at this juncture.

The future orientated claims are best described a murky and more like fond hopes that if we build it the demand and willingness for consumers to pay will follow & that the NBN needs to be a wholesale monopoly without an effective alternate technology HFC competitor to be profitable.

I find extreme difficulty in perceiving that a public benefit exists as opposed to a NBN benefit.

Cl.179 to Cl.183 Vibrant wholesale market!!!!

There will only be a cost plus monopoly provider—The NBN and several linked resellers such as Optus and Telstra . This section is best described as farcical and a puffery.

Cl.184 to Cl.192 The only inefficient duplication of infrastructure is being undertaken by the deployment of the NBN fibre where a HFC service exists.

Whilst there is no doubt that the NBN can provide extremely high speed services there is no reliable quantification as to what the demand would be for these high speed services in 2021

Additionally cost/benefits and what a sufficiently large group of consumers might consider as value for money are not defined nor can they be justified again it's a case of if we build it the demand and willingness for consumers to pay will follow. As there is no clear business case for the capability it is unquantifiable and must be considered a public detriment.

Again the disabling of the Optus HFC network provides clear benefits to a monopolistic NBN.

I have discussed elsewhere that as consumer prices are expected to rise in HFC footprint areas there is a Public detriment for consumers.

Cl.193 & Cl.194 More of the same. Benefits accrue to the NBN and prices for many customers in the Optus HFC footprint will rise if the Optus HFC network is disabled. More Public detriment.

Cl.195 to Cl.200 digging up the streets & footpaths to install a fibre cable and de-commissioning 2 perfectly serviceable HFC broadband networks past 2.7million households in HFC serviced areas is economic and environmental vandalism in the extreme.

The rest can be described as an irrelevance when the total energy embodied in the installation, commissioning & de commissioning of the HFC is considered .

Cl.201 & Cl.202 irrelevant.

Cl.203 & Cl.204 Dealt with previously.

Cl.205 to cl.210 I strongly disagree that there are public benefits should the NBN – Optus agreement proceed.

I agree that the NBN gains monopoly status, higher market prices and vast market powers that the ACCC may find difficult to restrain.

The assertion that the Optus HFC network is unlikely to be expanded extended or enhanced when it is a sunk cost & highly profitable is unrealistic.

Optus marketing savy has shown Optus can provide services at lower cost & higher value to consumers over the last 12 years than its major competitor for HFC services Telstra.

These services are matched to consumer needs at a high profit and with bundled leverage .

The discontinuance of the Telstra HFC network and a structurally separated Telstra provides a unique opportunity to Optus to capture many of those 400,000 ex Telstra

HFC customers without triggering a price war with a weakened & disinterested retail Telstra.

Public Detriments.

CI.201 to CI.255 Decommissioning the Optus HFC network is a high level public detriment.

The Optus HFC network provides an alternate sunk cost and highly competitive broadband network able to deliver services to about 1.4 million dwellings.

A current Telstra restraint that restricts Optus HFC access to multi dwelling units could readily be removed as a “Restraint of trade” by ACCC determination thus adding 600,000 potential consumers to the Optus HFC footprint .

It has a currently available HFC technology upgrade path to 1500/150 Mb/s, It is highly likely that further enhancements may be available by 2021 when NBN rollout is scheduled for completion.

The Optus HFC broadband network can be an effective market competitor for 2.2 million premises out of an existing broadband market of 5.6 million i.e. 39% of the highest yielding & profitable part of the broadband market.

Such market competition at the retail level will be reflected through the NBN resellers to the NBN and would, to use the vernacular, “ Keep the bastards honest”

I have already noted that a monopolistic NBN has sought to threaten, if the NBN-Optus agreement was not to proceed, to disadvantage consumers by withholding NBN rollout within the Optus HFC footprint and charge higher prices elsewhere where it has a monopoly.

The willingness on the NBN to use such intimidation to influence the ACCC approvals process does not bode well for the future and should be of grave concern to the ACCC.

The well reported difficulties that the ACCC has experienced in limiting Telstra’s market dominance and quasi monopoly with Telstra using teams of well funded lawyers should be considered.

Once the NBN monopoly is established with the decommissioning of the Telstra and Optus HFC broadband networks and its companion agreements it is irreversible for the foreseeable future and well beyond the 20 years dispensation sought by the NBN.

Summary

Decommissioning the Optus HFC broadband network and the complementary disabling of the Telstra HFC broadband network is an irreversible removal of real and established competition for the provision of broadband data services.

These HFC broadband networks are a sunk cost, low maintenance and represent a national asset that is about to be destroyed so as to provide for the establishment of a monopoly wholesale broadband provider the NBN.

Additionally these 900,000 broadband customers are the most profitable and highest yielding consumers who will face higher charges under the NBN who covets them as customers.

The NBN will pay a bribe to acquire these customers and to establish the NBN as a monopoly wholesale broadband supplier.

Retention of these HFC data networks would provide far more effective market competition and restraint for the Monopolistically inclined NBN & its resellers than the restraint that the ACCC could provide to a Monopoly wholesale NBN.

There is already high speed data at 1500/150Mb/s becoming available to the HFC and due to the large worldwide base of HFC systems further performance upgrades are expected to become available.

I am of the considered opinion that due to these factors the decommissioning of the Optus HFC broadband network and its associated NBN- Optus agreement will be to the overwhelming NET DETRIMENT of 8 million persons /2,2 million households/premises and so is a matter of national significance.

I urge the ACCC to reject the NBN Optus agreement in its entirety and to Determine that the Telstra exclusive cabling agreements in multi dwelling buildings are a restraint of trade and are disallowed.