Australian Government
Department of Broadband, Communications and the Digital Economy

Implementation of Universal Service Policy for the transition to the National Broadband Network environment

Discussion Paper

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Chapter 1: Overview of the policy framework

1.1 Introduction

On 20 June 2010 Telstra and NBN Co announced that they had entered into a non-binding Financial Heads of Agreement to support the rollout of the National Broadband Network. This Agreement provides for:

- the reuse of suitable Telstra infrastructure, including pits, ducts and backhaul fibre, by NBN Co as it starts to rollout its new network avoiding unnecessary infrastructure duplication, and
- the progressive migration of customers from Telstra's copper and pay-TV cable networks to the new wholesale-only fibre network to be built and operated by NBN Co.

In support of the Agreement, the Australian Government announced that it would progress public policy reforms[1] to support the transition to the National Broadband Network. The reforms include establishing a new entity, USO Co, which will commence operations in July 2012 and will, over time, become the entity with the regulated responsibility for delivering the Government's public policy objectives in the telecommunications sector, including:

- ensuring all Australians have reasonable access to a standard telephone service (the Universal Service Obligation for voice telephony services)
- ensuring that payphones are reasonably accessible to all Australians (the Universal Service Obligation for payphones)
- emergency call handling (Triple Zero '000' and '112') and the National Relay Service
- migration of voice-only customers to a fibre-based service as Telstra's copper exchanges are decommissioned, and
- the development of technological solutions for continuity of public interest services (such as public alarm systems and traffic lights).

The Australian Government has also agreed to provide funding for USO Co of $50 million per annum for the financial years 2012–13 and 2013–14, and then $100 million per annum thereafter. The residual costs incurred by USO Co will be met through an industry levy scheme which will replace the current Universal Service Obligation and National Relay Service levy schemes.

Consistent with the announcement of 20 June 2010 Telstra, NBN Co and the Australian Government are now in the process of negotiating detailed Definitive Agreements. When these negotiations are concluded the Definitive Agreements will be put to Telstra's shareholders and the Government, for final approval. The 'USO agreement' with Telstra will form part of these Definitive Agreements and it is the Government's expectation that the negotiation of this agreement will be concluded in a timely manner.

1.2 Transition to the National Broadband Network

The rollout of the National Broadband Network will result in a fundamental change to the structure of the Australian telecommunications market as Telstra's near ubiquitous

[1] *www.dbcde.gov.au/broadband/national_broadband_network/policy_statements*

national copper fixed line network will be gradually decommissioned as NBN Co rolls out its next generation network fibre infrastructure nationally.

NBN Co has been established by the Australian Government to rollout infrastructure covering all Australian premises that will support voice and high-speed broadband services. Access to the network will be on a wholesale-only basis, allowing providers to focus on serving their customers across the network.

For consumers the transition to this new telecommunications market structure will deliver significant improvements in terms of choice, availability and quality of services. For industry it will facilitate competition through open and non-discriminatory access and through providing a platform that enables and encourages service innovation.

However, the process of transitioning to the National Broadband Network involves significant challenges for all stakeholders which will require careful management. Of particular importance is the progressive migration of customers on to NBN Co's new fibre network and the subsequent decommissioning of Telstra's legacy copper network which has been the primary means of delivering telecommunications services to consumers, including voice and payphone services in fulfilment of the Universal Service Obligation.

The Government recognises that this change has practical implications for how its commitment to public policy objectives are delivered. Accordingly, the Government is putting in place alternative arrangements for the delivery of these objectives by establishing and tasking a new body, USO Co, to deliver the Universal Service Obligation and certain other public interest services through service agreements with third parties.

Initially, given the nature and period of the transition to the National Broadband Network and the importance of ensuring continuity of basic services, USO Co's service agreements will primarily be with the current USO Primary Universal Service Provider, Telstra. Over time it is intended that USO Co will undertake competitive tendering processes to fulfil its function and where feasible this may involve unbundling the delivery of services into infrastructure and retail components.

1.3 Commonwealth's objectives and principles

For industry, the Government's proposal to establish a new entity and associated funding mechanism to facilitate how public policy obligations are delivered is intended to provide:

- transparency and confidence in the costs determined to deliver the obligations
- equitable contributions towards the costs of delivering the obligations, and
- opportunities and incentives for industry to play a proactive role in minimising the extent to which ongoing government intervention is necessary to ensure basic telecommunications services are reasonably accessible.

In developing the proposed arrangements, including negotiating with Telstra, the Government will be guided by the following principles:

- ensure continuity of basic universal service outcomes for consumers, with a particular focus on the period of transition to the completed National Broadband Network
- facilitate a transition to greater competition
- recognise the costs of delivering the services and implement cost effective arrangements
- achieve timely, transparent and definitive outcomes, and
- implement arrangements that do not impose undue financial and administrative burdens.

1.4 Indicative timeframe for consultation and negotiation

As noted above the Government is focused on the timely conclusion of the negotiations with Telstra to implement the new universal service framework arrangements and is progressing these negotiations in parallel with the other negotiations to deliver the National Broadband Network and re-structure the industry. Telstra has previously indicated it is aiming to have Definitive Agreement negotiations complete by mid-December 2010, with substantive progress by the time of its Annual General Meeting.

Given the significant challenges involved in the transition to the National Broadband Network, the Government considers stakeholder input is critical. Noting the period of time since the release of the Government's policy statement and the timeframe associated with Definitive Agreement negotiations, the timeframe for concluding the consultation process will be necessarily short. The Government is seeking responses to the discussion paper by 3.00pm EDT Friday 5 November 2010 to allow stakeholders views to be factored into its negotiations with Telstra.

Chapter 2: Objective of the consultation process

2.1 Input to inform development of detailed arrangements

As a precursor to finalising negotiations with Telstra, the Government is seeking input from stakeholders to ensure that the appropriate issues are identified and alternative approaches are considered.

In general there are six main areas on which stakeholder input is being sought:

1. the specific outputs that Telstra should be contracted to deliver
2. an appropriate approach to determining the costs to Telstra for delivering the contracted outcomes
3. the arrangements that should be in place to create an incentive for Telstra to reduce costs and share cost reductions with USO Co
4. the arrangements that should be in place to ensure a transition to a more competitive and efficient structure for the delivery of public policy services beyond the life of the initial contracts, requiring less government intervention
5. the arrangements that should be in place to assure quality outcomes for consumers, and
6. the arrangements that should be in place to provide transparency for stakeholders and opportunities for industry to provide commercial solutions to reduce universal service costs.

Organisations that may have an interest in this consultation process include:

§ consumers and businesses
§ consumer and business representative bodies
§ carriers and carriage service providers
§ telecommunications equipment vendors and other organisations with skills in research and development of technological solutions, network design, operation and service delivery
§ Emergency Service Organisations
§ owners and operators of 'public interest systems' such as traffic lights and public alarms, and
§ state, territory and local governments.

Interested parties should note that, at this time, detailed input on the specific legislative and/or regulatory arrangements necessary to implement the policy framework is not being sought. Any future legislative and/or regulatory process will include appropriate consultation with stakeholders. However, the Government would welcome any views on principles or broad approaches to implement the policy that stakeholders may wish to contribute at this time.

Chapter 3: Issues for consultation

Chapter 3.1: Arrangements for voice telephony

Overview

This chapter discusses the proposed arrangements to continue to make voice telephony reasonably accessible as part of the transition to the National Broadband Network.

Current arrangements

Under the existing universal service regime, Telstra is the Primary Universal Service Provider. The *Telecommunications (Consumer Protection and Service Standards) Act 1999* provides a universal service obligation to ensure that Standard Telephone Services are reasonably accessible to all people in Australia on an equitable basis, wherever they reside or carry on business. The Minister is provided with the power to determine what constitutes reasonable access. While no such determination has been made to date, the effect of the current regime is that consumers can generally expect to be able to receive a voice telephony service on request from Telstra as the Primary Universal Service Provider, wherever they work or live.

Telstra is required to have a policy statement and a standard marketing plan (SMP) approved by the Australian Communications and Media Authority (ACMA). Together, these documents outline how Telstra intends to fulfil its obligations as the Primary Universal Service Provider. Telstra must take ‘all reasonable steps’ to comply with the policy statement, the SMP and the other obligations of the Primary Universal Service Provider.

The ACMA monitors Telstra’s overall compliance with the SMP and its other obligations as the Primary Universal Service Provider. However the SMP is quite flexible and provides Telstra with discretion in meeting the performance standards set out in its SMP. The Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2010 aims to clarify existing arrangements and strengthen consumer safeguards by allowing the Minister to determine performance standards and related benchmarks.

A ‘standard telephone service’ is a basic voice telephony service which enables the telephone user to call any other user of a standard telephone service, whether or not the users are connected to the same network. As noted above, Telstra, as the Primary Universal Service Provider, has an obligation to provide a standard telephone service to customers on a reasonably accessible basis. Other telecommunications providers may also choose to provide a standard telephone service.

A standard telephone service is regulated by a complex set of legislative arrangements with various features and service standards, such as enabling access to emergency call services. Telstra is also required to provide additional services when supplying a standard telephone service in fulfilment of the Universal Service Obligation. These features and standards are specified in its SMP. Telstra’s SMP also contains details on the timeframe to install and repair services and interim arrangements when the specified timeframes cannot be met.

Telstra’s Licence Conditions (Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997) also impose some obligations on Telstra in relation to the provision of a standard telephone service. A list of regulated features and standards for a standard telephone service is set out at Appendix A.

An additional requirement under the Universal Service Obligation is the supply of a standard handset upon request for the purposes of voice telephony, or if voice telephony is not practical for a particular end-user with a disability, another form of communication that is equivalent to voice telephony. For people with a disability, Telstra’s Disability Equipment Program provides certain types of specialised equipment for rental to enable them to access a standard telephone service. Provision of equivalent equipment is a requirement of the *Disability Discrimination Act 1992*. It is envisaged that the current arrangements for the Disability Equipment Program will be considered as part of a comprehensive review announced by Government in April 2010 to examine access to telecommunications for people with a disability (see Chapter 3.4).

Currently Telstra operates and maintains a number of customer access networks that provide a high degree of accessibility to voice telephony services throughout Australia. The network infrastructure used includes optical fibre, coaxial cable, copper wire pairs, radio and satellite links. For the areas that NBN Co intends to service via next generation fixed wireless and satellite infrastructure, Telstra predominantly makes use of copper wire pairs, radio and satellite links to deliver its current USO regulated obligations.

Determination of the cost of Telstra’s net loss for supplying services under the Universal Service Obligation has been a contentious matter for some time with various approaches used to calculate the amount. Telstra receives a subsidy towards meeting its obligations under the Universal Service Obligation. Currently the subsidy is determined by the Minister on advice from the ACMA. In providing that advice, the ACMA may consider the objects of the Universal Service Obligation regime, the length of the claim period, trend analysis based on the previous cost model, consultation with affected industry stakeholders and any other matters it considers relevant. The Universal Service Obligation subsidy for 2009–10 was set at approximately $145 million. Carriers contribute towards the cost of the subsidy in proportion to the amount of their annual eligible revenue.

Government policy and rationale

For 93 percent of Australian premises NBN Co’s fibre network will, over time, be the fixed line network that provides reasonable access to a range of telecommunications services including voice telephony. While these premises remain connected to Telstra’s copper network, Telstra will have a regulated obligation to continue to operate and maintain its existing copper lines. The responsibility to deliver standard telephone services under the Universal Service Obligation will transfer to USO Co as relevant areas are progressively disconnected from the copper exchange.

The protocols for determining when individual copper exchanges within the National Broadband Network fibre coverage areas are to be decommissioned will be agreed between the Government, NBN Co and Telstra.

Telstra will also be separately required to provide the Australian Competition and Consumer Commission with a migration plan that sets out the mechanisms and timeframes for migrating customers from its copper network to the National Broadband Network.

For the remaining seven percent of Australian premises, NBN Co's next generation fixed wireless and satellite infrastructure will, once rolled out, provide reasonable access to a range of telecommunications services including voice telephony. For these premises Telstra will also have a contractual obligation with USO Co to operate and maintain its existing copper network and other relevant infrastructure in non-fibre areas for a 10 year period starting from the commencement of USO Co in July 2012. In relation to its existing copper network Telstra will need to:

- continue to provide a standard telephone service using the copper network for any consumer who wishes to continue such a service, and
- ensure that the copper network is sufficiently maintained over time for that purpose.

Further, Telstra will continue to have a regulated obligation for the delivery of the Universal Service Obligation for standard telephone services to the premises not served by NBN Co's fibre network for two years after USO Co commences operations. After that time, the responsibility for delivery of the Universal Service Obligation for standard telephone services will transfer to USO Co.

The ACMA will continue to have responsibility for monitoring compliance with the Universal Service Obligation regulatory obligations.

A review will be conducted of the Universal Service Obligation voice arrangements in 2018. The review will consider future policy and funding arrangements, including the possible 'unbundling' of the Universal Service Obligation voice telephony obligation into infrastructure and retail components and whether to initiate competitive processes in relation to the Universal Service Obligation standard telephone service obligation.

The policy review, and any resulting competitive process, will be completed by 2020. If an alternative provider is selected, there would be a provision for a transitional period of up to two years, in which instance arrangements would be rolled over for that period. Telstra's responsibilities, as outlined above, would remain in place until the transitional arrangements are complete.

Implementation issues

Implementation of the Government's policy to continue reasonable access to standard telephone services during the transition to the National Broadband Network raises a number of implementation issues of direct interest to the industry and consumers. Feedback on these issues will assist the Government to achieve efficient and effective arrangements.

Scope of the agreements

For areas outside NBN Co's fibre footprint, the scope of the agreement with Telstra may cover the range of platforms that Telstra currently employs to meet its Universal Service Obligation regulatory requirements.

Alternatively, it may be limited to an agreement relating to the copper network with separate service delivery agreements required for premises currently served by non-copper platforms.

The agreements will need to accommodate the dynamic nature of operating a customer access network; this includes managing the:

§ variation in the demand for telecommunications services (for example, people relocating, construction of new premises and consumers' decisions to change service providers or platforms), and
§ operational performance of the various elements of the customer access network as they age and need to be remediated or replaced.

In addition, the agreements may need to address potentially high cost situations such as where even though the large majority of premises in a copper exchange area have been migrated to fibre there remain some premises that cannot be migrated to fibre (e.g. where local geographical features impede fibre deployment).

Further the agreements with Telstra and other infrastructure/service providers who may deliver services under the Universal Service Obligation, will also need to address performance standards. It will be important that the agreements are clear and precise and that they align with regulatory obligations.

3.1(1) Is it appropriate for the agreement to specify that Telstra both operates and maintains nominated infrastructure (i.e. deliver wholesale services) and also supplies the standard telephone service (i.e. deliver retail services)? What alternative or additional arrangements could be established that would enable the provision of a standard telephone service, for example, an agreement with Telstra that relates only to the delivery of wholesale services in combination with a subsidy scheme for retail service providers or by appointing a retailer of last resort?

3.1(2) Under what circumstances would it be appropriate for non-copper infrastructure to be used to efficiently deliver voice services to customers in National Broadband Network non-fibre areas that are currently served by copper infrastructure?

3.1(3) What arrangements should USO Co put in place to ensure the ongoing delivery of voice-only services once the NBN Co fibre network is operational?

Duration of agreements and desired end state

For the premises that will not receive a National Broadband Network fibre service but currently receive telephony services via the copper network, the Government recognises that a long-term agreement with Telstra has benefits in terms of:

§ providing certainty for consumers and the industry on the arrangements to underpin the delivery of voice telephony services, and
§ allowing the parties to the agreement sufficient time to obtain value.

However, a long-term agreement of the type envisaged, if not appropriately structured has the potential to:

§ lock in arrangements that over time may deliver higher cost outcomes
§ distort or forestall the development of a competitive market, and

- limit incentives to improve service standards.

In the long term, it is desirable that the Universal Service Obligation for voice services can be delivered as efficiently as possible.

3.1(4) What key principles and considerations should be taken into account in providing flexibility in the duration of the agreement with Telstra to reflect changing circumstances, such as the availability of NBN Co's wireless or satellite services?

3.1(5) If separate agreements were established for non-copper infrastructure to deliver voice services in National Broadband Network non-fibre areas, what would be an appropriate term?

3.1(6) What is the desirable end state model for the provision of voice services outside the fibre footprint, in terms of technological solutions and universal service arrangements, beyond the life of the initial agreements?

3.1(7) What transition path will enable the desirable end state model to be achieved and how can the initial agreements create the right incentives to ensure that this transition path is followed during the term of the initial agreements?

Determining costs

The experience in Australia and in other jurisdictions for the costing of legacy telecommunications networks is that it is often complex, contentious and involves substantial expense and time. Further, given the range of methodological issues, subjective judgments and conflicting interests involved, it is likely that the results of any costing, no matter how rigorous, would be contested by one or more of the affected parties.

Notwithstanding these challenges it is important, given the duration of the proposed contract and the potential magnitude of the funds involved, that an appropriate costing approach is determined. The approach should have regard for:

- the need to provide maximum certainty, transparency and confidence to the parties and to industry and other stakeholders around the ongoing costs of providing universal services
- the desirability of avoiding administrative complexity and ongoing disputes between the parties over the amounts payable under the proposed contract, and
- the timely settlement of definitive agreements to enable the progress of the National Broadband Network and reform of the telecommunications industry.

Options for determining the commercial basis on which USO Co will contract with Telstra could include:

- use of previous results of cost models developed by the ACCC, with an adjustment to include a revenue component,
- payment of a service fee for the cost of operating and maintaining nominated infrastructure, or
- development of a new network cost model for nominated infrastructure.

The commercial basis for payment will depend on the scope of service that is being contracted.

3.1(8) Having regard to the timetable for finalising the negotiations with Telstra what methodology/approach should be employed to determine the funding costs for the purpose of the proposed contract?

3.1(9) Irrespective of the particular methodology/approach employed, what arrangements should be put in place to provide stakeholders with transparency and confidence in the methodology and outputs?

Chapter 3.2: Arrangements for payphones

Overview

This chapter discusses the proposed arrangements to continue to make payphones reasonably accessible as part of the transition to the National Broadband Network.

Current arrangements

As the Primary Universal Service Provider, Telstra is required to ensure that payphones are reasonably accessible to all people in Australia on an equitable basis, wherever they reside or carry on business. These arrangements are outlined in Part 2 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

Telstra is required to have an ACMA-approved policy statement and standard marketing plan (SMP) outlining how it intends to fulfil its obligations as the Primary Universal Service Provider. The *Telecommunications (Consumer Protection and Service Standards) Act 1999* does not distinguish between the provision of payphones on a commercial basis and those provided under the Primary Universal Service Provider obligation, but Telstra's SMP sets out a framework determining where payphones are located, based on proposed location characteristics, commercial viability and proximity to the nearest payphone.

The ACMA monitors Telstra's overall compliance with its Primary Universal Service Provider obligations, including requiring Telstra to prepare a SMP setting out how it will meet its obligations for provision of payphones and timeframes for their repair. Telstra payphone locations are decided in accordance with an 'assessment framework' contained in table 3.8 of the SMP. Under this assessment framework, Telstra is required to install payphones at all locations 'considering all reasonable financial and siting implications' and having regard to the relative proximity of the nearest payphone. The assessment framework sets out a matrix to determine placement of payphones in a manner that complies with the requirement that they be reasonably accessible to all Australians (see Appendix B).

Factors used in the assessment framework to determine whether to install, relocate or remove a particular payphone include: location, commercial viability, depreciation and maintenance costs and proximity to the nearest payphone.

The obligations under the SMP as they relate to payphones provide Telstra with considerable flexibility and discretion in meeting the performance standards. For example, the SMP allows Telstra to avoid installing a payphone where there exists a private payphone or there is a reasonable likelihood of vandalism or very high installation costs. Similarly, Telstra is able to relocate or remove a payphone in such instances as 'changes in usage and demand as assessed by Telstra' or 'where there have been significant or sustained costs due to repeated misuse and damage to the facility'.

In response to community complaints about payphone removals in June 2006, Telstra made a series of commitments to the previous Government. The commitments were designed to facilitate more consultation and better information about any plans Telstra might have to remove payphones from a community and an enhanced complaints process. The ACMA has the power to investigate any complaints about Telstra's proposed removal of a payphone.

The Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2010 aims to clarify existing arrangements and strengthen consumer safeguards by making provision for the Minister to determine rules for public consultation and complaint resolution, as well as performance standards and benchmarks including in regard to the supply, installation, maintenance and location of payphones.

In 2009–10 the payphone component of the Universal Service Obligation subsidy was $13.9 million.

There has been a decline in the number of public payphones and in public payphone usage in recent years. Figures from the ACMA show that total payphone numbers have declined from over 60 000 units in 2004–05 to approximately 35 000 units in 2009–10. Of the approximate 35 000 payphone units currently in service, including Telstra's 175 payphone teletypewriters, over 54 per cent are operated by Telstra with the remainder provided by other providers such as Tritel or in businesses such as hotels and clubs.

Estimates of recent usage show call volumes are declining for both public payphones (113 million calls in 2008–09 to 95 million calls in 2009–10) and private payphones (16 million calls in 2008–09 to 9 million calls in 2009–10). Despite steadily declining usage, the Government considers that payphones currently provide an important community service by enabling reasonable access to telecommunications.

Government policy and rationale

Telstra will continue to have responsibility for the delivery of the Universal Service Obligation for payphones in the areas to be served by National Broadband Network fibre up until the copper exchange which serves them is decommissioned. The responsibility for the delivery of the Universal Service Obligation for payphones will then transfer to USO Co. NBN Co is expected to provide the connections to these payphones.

For areas that are not served by the National Broadband Network fibre, Telstra will continue to have responsibility for the delivery of the Universal Service Obligation for payphones for two years after USO Co commences operations. After that time, the responsibility for delivery of the Universal Service Obligation for payphones will transfer to USO Co.

As previously noted in Chapter 3.1, it is intended that Telstra will also have a contractual obligation with USO Co to operate and maintain its existing copper network and other relevant infrastructure in non-fibre areas for a 10 year period starting from the commencement of USO Co in July 2012.

Under these arrangements USO Co will provide a safety-net for the continued delivery of payphones both during and after the period of the National Broadband Network rollout.

The ACMA will continue to have responsibility for monitoring compliance with the current Universal Service Obligation regulated obligations.

Implementation issues

Implementation of the Government's policy for continuity of the Universal Service Obligation for the delivery of payphones raises a number of implementation issues of direct interest to the industry and consumers. Feedback on these issues will assist the Government to put in place efficient and effective arrangements.

It is envisaged that USO Co's responsibility for payphones will initially be met through an agreement with Telstra, with the intention that the service delivery agreement may become contestable in the longer term.

Scope of the agreements

The initial agreement for the delivery of payphones will need to be definitive and align with regulatory obligations, particularly in terms of the:

§ locations of payphones to be included under the contract, and

§ performance standards that are required to be met.

3.2(1) What issues, if any, are associated with adopting Telstra's framework for determining payphone locations to meet its Universal Service Obligation (see table 3.8 of the SMP) as a basis for a service agreement between USO Co and Telstra?

3.2(2) What alternative approaches could be adopted to identify the payphones that are to be provided by Telstra under its agreement with USO Co?

3.2(3) What issues, if any, are associated with adopting the current service performance standards for payphones as set out in Telstra's SMP as a basis for a service agreement between USO Co and Telstra?

3.2(4) What alternative approaches could be adopted to specify service performance standards for payphones under the proposed agreement?

Duration of agreements

3.2(5) Noting the desirability of facilitating contestable arrangements for the delivery of payphones in the longer term and the progressive transfer of responsibility for payphones in areas to be served by the National Broadband Network, what would be a suitable period for the initial service agreement between USO Co and Telstra?

Determining costs

3.2(6) What approach to determining the funding requirements for payphones would provide stakeholders with transparency and confidence in the outcome while minimising administrative complexity and the potential for ongoing disputes?

3.2(7) What incentives should be included in service agreements to ensure that funding requirements for payphones align with efficiently incurred costs and remain flexible to future customer demands?

3.2(8) What arrangements would facilitate the emergence of contestable payphone service agreements in the longer term? On what basis would these approaches achieve efficient outcomes?

3.2(9) Under what circumstances would retail service providers consider contesting payphone services delivered to meet the Universal Service Obligation?

Chapter 3.3: Arrangements for the transfer of emergency call handling functions

Overview

This chapter discusses the arrangements for transferring the Emergency Call Service to a USO Co funded model with an initial contract between USO Co and Telstra for delivery of the Emergency Call Service and arrangements for USO Co to fund the Emergency Call Service provider on a contestable basis upon expiry of the contract with Telstra.

Current arrangements

Arrangements for emergency call services in Australia are covered by the *Telecommunications Act 1997* and the *Telecommunications (Consumer Protection and Service Standards) Act 1999*. The service is further regulated by legislative instruments such as the Telecommunications (Emergency Call Persons) Determination 1999 (the Emergency Call Persons Determination) and the Telecommunications (Emergency Call Service) Determination 2009 (the Emergency Call Service Determination).

The Emergency Call Persons Determination specifies Telstra, as the current national operator of emergency call services, to receive and handle calls to Triple Zero (000) and 112 (international standard emergency number from mobile phones). It also specifies the National Relay Service provider, as a national operator of emergency call services, to receive and handle calls to 106 from teletypewriter (TTY) devices.

Under current arrangements, emergency calls to Triple Zero or 112 are received by Telstra, which then forwards the call to the requested Emergency Service Organisation (for example, police, fire or ambulance or the nominated call centre) in the relevant state or territory. Similarly calls to the 106 text based service are received by the current National Relay Service provider, Australian Communication Exchange Ltd, and relayed to the relevant Emergency Service Organisation.

The ACMA monitors the provision of the Emergency Call Service under Part 8 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*. The Act obliges the ACMA to make a determination placing requirements on carriers, carriage service providers and Emergency Call Persons with respect to the Emergency Call Service.

Telstra's net costs from fulfilling the Emergency Call Person function are not met through the current funding arrangements for the Universal Service Obligation. Telstra also incurs costs from choosing to undertake some related activities (for example, it contributes to public awareness activities intended to reduce non-emergency calls).

Part 5 of the Emergency Call Service Determination states that the Emergency Call Person for Triple Zero and 112, or the Emergency Call Person for 106, must not charge an Emergency Service Organisation, directly or indirectly for:

- receiving and handling calls to an emergency service number
- transferring such calls to an Emergency Service Organisation, and

- giving information in relation to such calls to an Emergency Service Organisation.

Telstra, as the Emergency Call Person for Triple Zero and 112, recoups part or all of the interconnection costs associated with delivery of the Emergency Call Service from other carriers. Australian Communication Exchange Ltd delivers the 106 text service under contract with the Commonwealth. The full costs of the 106 service are currently met by industry through the National Relay Service levy, which covers the overall costs of the National Relay Service (see Chapters 3.4 and 3.7).

On 20 April 2010, the Minister announced that the Department would conduct, in conjunction with the ACMA, a comprehensive community consultation process, to explore the way the National Relay Service could be improved and developed for the future. The future arrangements for the 106 text service will be considered as part of this review (see Chapter 3.4).

The ACMA has released a public consultation paper and received submissions on a proposal to amend the Emergency Call Service Determination to require mobile carriers to provide all location information available in association with an emergency call at the request of an emergency service organisation. The ACMA is currently in the process of reviewing submissions. If the ACMA decides to amend the Emergency Call Service Determination, the ACMA will release the draft amendment for public comment.

The Department notes there are a number of emerging issues that may impact on the delivery and cost of the Emergency Call Service over time. Examples include:

- challenges in identifying the location of callers, particularly when emergency calls are placed using voice over internet protocol technology or a mobile phone
- potential future requirements to broaden emergency call handling capabilities beyond voice calls to include, for example, the use of email and video calls
- the ongoing development of strategies that may reduce the volume of non-emergency calls received by the Emergency Call Person and/or Emergency Service Organisations, and
- collaborative efforts between the Commonwealth and Emergency Service Organisations in each state and territory to improve the end-to-end emergency call process.

It is not the intention that these issues will be addressed through the process to establish USO Co. It will be a decision for the Government whether and when to undertake a policy review, with the potential for broader reform of the Emergency Call Service arrangements. As such, the initial contract with Telstra will need to build in flexibility to respond to possible changes to the Emergency Call Service over time.

Government policy and rationale

The Government has an ongoing commitment to the delivery of public interest telecommunications services, including emergency call handling. USO Co will assume responsibility for emergency call handling functions with delivery of the service initially maintained through an agreement between USO Co and Telstra. The duration of the contract and the exact timing for the transfer of responsibility for emergency call handling functions is to be settled following consultation with Telstra and other key stakeholders. The policy statement does not propose any changes to the delivery of the 106 text service operated under contract by the National Relay Service provider, Australian Communication Exchange Ltd.

This approach will ensure that the Emergency Call Service continues to be delivered in a highly reliable manner and will provide sufficient time for any transition to an alternative provider to be carefully managed.

The policy statement also indicates that USO Co will have the capacity to ‘unbundle’ delivery of services into infrastructure and retail components and to undertake competitive tendering processes for the delivery of services.

The Government will retain policy control in relation to the performance of the emergency call function. The ACMA will continue to have responsibility for monitoring compliance with regulated obligations.

Implementation issues

Scope of the agreement

To provide service continuity, USO Co will initially contract with Telstra to continue to deliver the Emergency Call Service. It is anticipated the initial contract with Telstra will commence on 1 July 2012 and will reflect the existing arrangements for the Emergency Call Service.

3.3(1) What, if any, impediments are there to the initial contract with Telstra commencing on 1 July 2012? What alternative commencement date, if any, may be more appropriate? Why?

In moving to an initial contract with Telstra, the intent is to capture the extent of the existing emergency call handling arrangements but without introducing overlapping contractual and regulated obligations.

3.3(2) How are existing performance standards and obligations for the Emergency Call Person best dealt with in an initial contract with Telstra? Is it sufficient to rely on the outcomes detailed in the Emergency Call Service Determination or would additional detail in the contract be required to ensure that the current performance arrangements are appropriately captured?

3.3(3) Are there activities that Telstra currently performs as the Emergency Call Person that are outside of the current regulatory arrangements and should be included in a contract to ensure their continuation and inclusion in the funding arrangements?

Duration of the agreement

An appropriate initial contract period with Telstra will ensure that the Emergency Call Service continues to be delivered to the high standards of reliability and availability expected by the public and Emergency Service Organisations while any transition arrangements are implemented and quality assured. While initial contracts will be with Telstra, the Government has indicated that USO Co will have the capacity to contract with other parties for the delivery of its Universal Service Obligation and public interest functions.

As such, USO Co may decide to open up the Emergency Call Service to contestable arrangements beyond the initial contract with Telstra. In the event that USO Co contracts with another provider to deliver the Emergency Call Service after Telstra, given the critical importance of the service, there would need to be a transitional period (for example, during which the two systems would be operated in parallel). The Department's initial view is that a five year term, with a six month transitional period, could be an appropriate duration for the initial contract with Telstra.

3.3(4) Is five years an appropriate duration for the initial contract with Telstra? Why/why not? What alternative period, if any, may be more appropriate?

3.3(5) If USO Co was to enter into an agreement with an alternative service provider, would a six month transitional period be appropriate? Why/why not? What alternative period, if any, may be more appropriate?

Determining costs

The Department is seeking stakeholder views on what models or methodologies could be used for determining the costs of the Emergency Call Service, and to adjust costs over time. Given it currently meets the net costs of service provision, Telstra has commercial and reputational incentives to ensure it meets its existing regulated obligations as the Emergency Call Person cost efficiently. A possible approach to costing the Emergency Call Service would be to review Telstra's historical costs of delivering the service, settle eligible categories of expenses and attribute agreed costs to those expenses.

Given the importance of the Emergency Call Service, any cost model must be sufficiently flexible to account for changing operational demands and have appropriate mechanisms in place to cost and fund upgrades necessary to ensure the continued high standards of the Emergency Call Service over time.

3.3(6) Is the proposed costing model an appropriate means of determining the costs of the Emergency Call Service? Why/why not? What alternative approaches, if any, are there to determine costs?

3.3(7) Would the proposed costing model to determine the funding requirements for the Emergency Call Service provide stakeholders with transparency and confidence in the outcome? Why/why not? What changes, if any, could ensure greater transparency in the model?

3.3(8) Would the proposed cost model facilitate the emergence of contestable service agreements? Why/why not? What changes, if any, could ensure that efficient outcomes are achieved?

3.3(9) What alternative costing models are available, that may increase the quality and efficiency of the Emergency Call Service, while minimising overall costs?

3.3(10) How could necessary upgrades to the Emergency Call Service over time be appropriately costed and funded during the initial contract with Telstra?

3.3(11) What incentives could be included in service agreements to ensure that funding requirements for the Emergency Call Service are efficient?

Chapter 3.4: Arrangements for the National Relay Service

Overview

This chapter outlines the arrangements for transitioning the contract management of the National Relay Service and mechanisms for longer-term delivery of the National Relay Service once USO Co is established.

Current arrangements

The *Telecommunications (Consumer Protection and Service Standards) Act 1999* establishes the National Relay Service as a service which provides people who are Deaf, or who have a hearing and/or speech impairment, with access to a standard telephone service. It also requires the ACMA to monitor and report on the performance of the National Relay Service providers.

The National Relay Service is an Australia wide public interest service presently provided under contract with the Commonwealth. It operates 24 hours a day, 365 days a year in the English language. The National Relay Service is comprised of two parts. The Relay Service (existing contract with Australian Communication Exchange Ltd) enables telephone contact between people who are Deaf, hearing impaired and speech impaired and the broader community. The Outreach Service (existing contract with CFW Spice Pty Ltd, trading as WestWood Spice Pty Ltd) provides information regarding the National Relay Service and support and training to users of the Relay Service. The ACMA currently manages the contracts for provision of the National Relay Service, which are due to expire on 30 June 2011. The Department has policy oversight for the National Relay Service. The National Relay Service is funded through a levy on carriers (see Chapter 3.7).

On 20 April 2010 the Minister announced:

- that the Department would conduct, in conjunction with the ACMA, a comprehensive community consultation process, to explore the way the National Relay Service could be improved and developed for the future. It is also envisaged that the current arrangements for Telstra’s Disability Equipment Program will be considered in this review (see Chapter 3.1), and
- the Government’s intention to establish an SMS emergency service for people who are Deaf or have a hearing or speech impairment. The Department is working to address technical, regulatory and financial implications with the introduction of this service as a matter of priority.

Government policy and rationale

As the primary body with responsibility for the delivery of the Universal Service Obligation and other public interest obligations, at an appropriate time USO Co will assume responsibility for the Commonwealth's existing contract management functions of the National Relay Service.

The Government will retain policy control in relation to the performance of the National Relay Service and the ACMA will continue to have responsibility for monitoring compliance with regulated obligations and associated reporting.

Implementation issues

The arrangements for the delivery of the National Relay and Outreach Service already align with the Government's Universal Service Obligation policy statement (that is, sourced through a competitive process from the market). The key issues for the Government will be to ensure:

- current National Relay Service contractual arrangements are effectively transitioned to USO Co so that continuity of high quality services is maintained
- arrangements for the delivery of the National Relay Service are suitably flexible to accommodate policy developments, including those that may result from the National Relay Service review announced separately by the Government, and
- there are appropriate ongoing mechanisms to promote transparency, efficient outcomes and industry and stakeholder involvement in the delivery of the National Relay Service.

As noted earlier, current contracts for the National Relay Service are due to expire on 30 June 2011, while USO Co is expected to operate from 1 July 2012 (at which point it will accept responsibility for the Commonwealth's existing contract management function). The ACMA will remain responsible for contractual arrangements for the ongoing delivery of the National Relay Service until USO Co is operational.

3.4(1) Noting the current contestable arrangements in place to deliver the National Relay Service, and the timeframe for the establishment of USO Co, what are the short-term issues that need to be taken into account to ensure an effective transition of the contract management function to USO Co?

Chapter 3.5: Arrangements for migrating voice-only customers to a fibre-based service

Overview

This chapter discusses the implementation issues associated with USO Co funding and contracting for the delivery of the migration of voice-only customers to a fibre-based service.

Current arrangements

To date there has been no requirement to migrate voice-only customers to fibre-based services, as Telstra has not commenced decommissioning any exchanges in areas where NBN Co has rolled out its fibre network.

As discussed previously, the Financial Heads of Agreement between Telstra and NBN Co envisages Telstra progressively decommissioning local exchanges that fall within NBN Co's fibre network coverage. For these exchange areas decommissioning will take place at an agreed time after the NBN Co network commences delivering services. Once an exchange is decommissioned consumers will not be able to obtain voice services over the copper network. To ensure service continuity it will be important for voice-only customers on the copper network to migrate to a service on NBN Co's fibre network or have made alternative service arrangements.

Government policy and rationale

In its policy statement, the Government announced that as a safety-net measure USO Co will meet the agreed cost of migrating any remaining voice-only customers to a fibre-based service after the copper exchange is decommissioned. The protocols for determining when individual copper exchanges within the National Broadband Network fibre coverage areas are to be decommissioned will be agreed between the Government, NBN Co and Telstra.

As part of the National Broadband Network rollout, NBN Co in conjunction with industry and in consultation with the Government, will fund and undertake a public information and education campaign. This will create awareness among customers, including voice-only customers, about the need to migrate their services from the copper-based infrastructure to the fibre infrastructure.

In implementing this policy, key considerations for Government are to ensure that:

- a safety-net measure is provided so that existing customers with a voice-only service are not disadvantaged by having to meet any in-home re-wiring costs which may be required to transition from Telstra's copper network to NBN Co's fibre network
- service providers do not have to incur costs associated with any in-home re-wiring which may be required for their existing voice-only customers to transition from Telstra's copper network to NBN Co's fibre network
- arrangements for migration of existing voice-only customers are as administratively simple as possible for service providers and their customers, and

- industry has opportunities and incentives to provide National Broadband Network services to existing voice-only customers without the need for government intervention (that is, limit USO Co's funding requirements).

Implementation issues

Scope of the agreements

The policy statement indicated that USO Co will meet the agreed costs of migrating voice-only customers to NBN Co's fibre network. It is the intention that service providers should not have to incur additional costs directly as a result of needing to migrate their voice-only customers to NBN Co's fibre network as exchanges are decommissioned as part of the National Broadband Network rollout. This assistance is intended to provide a safety-net to ensure that voice-only customers receive assistance to migrate to NBN Co's fibre network once Telstra's copper exchanges are decommissioned. It is not envisaged that USO Co will have a role in meeting any ongoing service charges or other fees for voice-only customers.

Migration activities may be time consuming and will need to occur sufficiently in advance of exchanges being decommissioned to ensure that any remaining voice-only customers do not have a break in the continuity of their voice service. However, if USO Co funded migration of voice-only customers commences too far in advance of exchanges being decommissioned then this may act as a disincentive for early migration to the National Broadband Network and impose higher costs on USO Co than would otherwise be necessary.

A basic approach to the agreed costs of migrating voice-only customers is for USO Co to provide service providers with a flat one-off payment for the migration of an eligible voice-only customer from Telstra's copper network to NBN Co's fibre network. The work would take place once the fibre drop and connection to the premises had been completed by NBN Co.

3.5(1) What risks and benefits are there with the model proposed? Are there alternative models that would deliver efficient outcomes?

3.5(2) Is a voice-only service delivered via the PSTN a suitable definition to use in identifying a voice-only customer? If not, what is an alternative?

3.5(3) How can industry-based solutions best be encouraged to reduce the overall number of voice-only customers that require USO Co funding assistance to migrate from Telstra's copper network to NBN Co's fibre network?

3.5(4) How should the voice-only migration assistance be provided to avoid perverse incentives that would increase the number of customers that receive voice-only migration support, and then subsequently convert to broadband services?

3.5(5) What audit/cost verification mechanisms and processes should apply for migration of voice-only customers to a fibre-based service?

3.5(6) What issues would arise if USO Co was to meet the agreed costs of migration of voice-only customers three months prior to the decommissioning of an exchange? What alternative periods or approaches, if any, may be more appropriate?

Determining costs

The Department is seeking stakeholder views on establishing the amount of the payment for migrating voice-only customers. Costs that could be taken into account include internal rewiring of premises and costs associated with arranging a suitable time with the customer for any work to be undertaken.

The costs of migration will also be influenced by the degree to which voice-only customers can readily connect to NBN Co's fibre network using existing equipment without the need for additional cabling, adaptors or equipment.

3.5(7) What are the basic activities and materials that a flat one-off payment should address?

3.5(8) What is an appropriate method for determining the average cost for the activities and materials, and how should any differences in costs of migration be managed?

3.5(9) What role could industry play in ensuring that the costs that are to be taken into account are efficient?

Chapter 3.6: Development of a technological solution for transition of copper-based public interest services

Overview

This chapter discusses arrangements for development of an appropriate technological solution to ensure continuity of copper-based public interest services such as traffic lights and public alarm systems as part of the migration to the National Broadband Network.

Current arrangements

Telstra currently has a suite of 'special services' that operate over its copper network for which it has developed the technology, and these services are offered to customers at market rates. While some of these services are considered public interest services, none are currently prescribed carriage services under the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

Government policy and rationale

For public interest services such as public alarms and traffic lights, the Government's objective is to ensure that these can be smoothly transitioned onto the National Broadband Network fibre network or alternative infrastructure. The Government has indicated that it is prepared to fund (via USO Co) development by Telstra of an appropriate technological solution. The period of the funding agreement with Telstra to develop a technological solution will be determined following further discussion with Telstra.

In implementing this policy, the possible implementation principles may be to ensure:

- that copper-based public interest services continue to be delivered when Telstra's copper exchanges are decommissioned
- USO Co funding for technological solutions serves as a safety-net but does not prevent or reduce incentives for industry-based, commercial solutions to be developed independent of USO Co funding
- Telstra does not have to bear the costs of developing technological solutions for migrating copper-based public interest services that could not be recouped by usual commercial arrangements, and
- any technological solutions developed as a result of government funding are made available on an equitable basis so as not to provide commercial advantage to any given party.

Implementation issues

Scope of the agreements

The policy statement indicates traffic lights and public alarm systems are key copper-based public interest services for which USO Co will fund Telstra to develop technological solutions. While the policy statement indicates that USO Co will fund Telstra's development of a technological solution, the intention is that, if appropriate, there will be a competitive approach to funding technological solutions given the policy statement indicates that USO Co will have the capacity to contract with other parties for delivery of public interest services.

However, a key principle is to ensure that Telstra does not incur costs of researching and developing a technological solution required in order to migrate public interest services from its copper network once exchanges are decommissioned in support of the National Broadband Network rollout.

As Telstra's copper exchanges are decommissioned, it is anticipated that National Broadband Network fibre infrastructure will become the primary underlying infrastructure used to deliver public interest services that were previously delivered over copper. However, organisations that currently provide public interest services over the copper network may wish to make commercial decisions to use alternative technological solutions to the National Broadband Network fibre network as exchanges are decommissioned.

It is anticipated that USO Co funding will be limited to the research and development of technological solutions that replicate existing functionality for public interest services, and that any additional functionality sought would be a matter for owners/operators of public interest services to pursue independently.

The intention is that USO Co would only fund research and development of technological solutions to migrate public interest systems where there is no technological solution available or being developed and the systems:

- have functionality that is reliant on a fixed connection to the copper network
- provide a substantial community or public benefit relative to any private benefit, and
- do not generate a revenue stream sufficient to support commercial development of a technological solution.

3.6(1) Apart from traffic lights and public alarm systems, are there other public interest services that currently rely solely on the copper network that should attract support? What industry-based commercial arrangements, if any, are in place or could readily be made available by the market for these services?

3.6(2) What existing or soon to be available technological solutions for migration of copper-based public interest services, if any, could be used or readily adapted without requiring USO Co to substantially fund development of a new technological solution?

3.6(3) For each public interest service identified, are there particular issues or challenges that would be need to be resolved in order to develop a technological solution?

3.6(4) If required, should the USO Co funding for development of a technological solution or solutions to transition public interest services only support migration from copper to fibre, or should technological solutions also support migration to other platforms (for example, wireless or satellite)?

Duration of agreements

Development or adaptation of technological solutions would not be an ongoing task and, therefore, it is anticipated the duration of agreements would primarily be a matter to be settled by Government.

A consideration in agreements will be to ensure that the development of a technological solution occurs well in advance of the copper network being decommissioned. As previously noted protocols for determining when individual copper exchanges within the National Broadband Network fibre coverage areas are to be decommissioned will be agreed between the Government, NBN Co and Telstra.

Determining costs

Development or adaptation of technological solutions would not be an ongoing task and, therefore, it is anticipated that agreeing on appropriate costs would primarily be a matter to be settled by Government. However, stakeholders are asked to detail any relevant examples or benchmarks.

The Government's stated policy is to provide funding to support research and development of technological solutions. USO Co will therefore not meet costs of delivering public interest services on an ongoing basis or the costs of implementing a funded technological solution or other costs involved in transitioning public interest services to a new technology platform. Owners and operators of public interest services will need to make commercial decisions about available technological options and meet the implementation and migration costs involved in moving onto the National Broadband Network fibre network or an alternative platform.

3.6(5) In circumstances where competitive sourcing of solutions is unavailable, what benchmarks could be used to determine the likely cost of researching and developing or adapting technological solutions for migration of copper-based public interest services?

3.6(6) How could funding be structured to encourage innovative industry-led solutions to support migration of copper-based public interest services?

3.6(7) What approach to determining the funding requirements for the development of a technological solution for migration of copper-based public interest services would provide stakeholders with transparency and confidence in the outcome?

3.6(8) What arrangements should apply to intellectual property developed with USO Co funding and to its commercialisation?

Chapter 3.7: Funding arrangements for USO Co

Overview

This chapter discusses the funding arrangements in support of the Government's announced future universal services framework. This includes discussion of potential sources of funding, amount of funding required, and processes for ensuring funding is available.

Current arrangements

The existing funding arrangements for the Universal Service Obligation subsidy are provided for in the *Telecommunications (Consumer Protection and Service Standards) Act 1999*. All eligible carriers must contribute annually to the subsidy in proportion to their share of total industry 'eligible revenue', which is defined as a carrier's total telecommunications revenue minus certain allowable deductions. The total subsidy to be paid is determined by the Minister. The total Universal Service Obligation subsidy is the amount paid to Telstra as the Primary Universal Service Provider, minus any amount of levy debit owing to the Government in accordance with the above Act.

In 2008-09, the five largest contributors based on eligible revenue were (figures rounded):

§	Telstra Corporation Limited	$91.8 million
§	Optus Mobile Pty Limited	$17.6 million
§	Optus Networks Pty Limited	$10.7 million
§	Vodafone Australia Limited	$8.9 million
§	Hutchison 3G Australia Pty Limited[2]	$4.1 million

Out of 186 carriers, 41 were assessed as having nil eligible revenue during the relevant period (2007–08) and were not required to contribute.[3]

On 15 September 2009, the Minister announced a proposed change to Universal Service Obligation funding arrangements that will exempt carriers earning less than $25 million in annual revenue from Universal Service Obligation (or related) liabilities. The basis for this approach is to provide a more equitable funding framework targeting larger carriers, minimising the regulatory and reporting burden on smaller carriers, and reducing the ACMA's administrative costs.

Separate to the Universal Service Obligation Levy arrangements is the National Relay Service Levy, also set out in the *Telecommunications (Consumer Protection and Service Standards) Act 1999*. Under current arrangements, carriers with gross telecommunications revenue of $10 million or above are required to contribute to this levy on a quarterly basis. The amount that each participating carrier contributes is based on their share of 'eligible revenue'. In 2008–09, the total cost of providing the National Relay Service was $16.4 million (inclusive of GST).

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[2] Following merger completed in June 2009, Hutchison 3G Australia Pty Limited is now known as Vodafone Hutchison Australia Pty Limited

[3] Australian Communications and Media Authority Communications Report 2008–09

The Minister will seek advice from the ACMA prior to setting the universal service subsidy amounts for financial years 2010–11 and 2011–12. Currently, the ACMA is responsible for the determination, collection and distribution of revenue collected by the Universal Service Obligation and National Relay Service levy schemes.

Government policy and rationale

In its June 2010 policy statement, the Government outlined the broad funding framework for the proposed arrangements as follows:

- the Government will provide dedicated funding for Universal Service Obligation service delivery of $50 million per annum for the financial years 2012–13 and 2013–14, and then $100 million per annum thereafter
- the residual costs incurred by USO Co will be met through an industry levy scheme which will replace the current Universal Service Obligation and National Relay Service levy schemes
- industry funding contributions (including from wholesale providers such as NBN Co) will be based on eligible revenue principles similar to those currently used to determine industry contributions to the Universal Service Obligation and the National Relay Service levy schemes, and
- existing Universal Service Obligation and National Relay Service funding arrangements would continue to apply in the interim, and that future payment mechanisms and detailed arrangements will be developed in consultation with stakeholders.

Implementation issues

In simple terms, the scope of what needs to be funded can be summarised as follows:

- delivery of services in support of the Government's announced framework, including:
    - the Universal Service Obligation for voice telephony services and payphones
    - public interest services, such as emergency call handling functions
    - special services, such as the National Relay Service
    - the migration of voice-only customers to a fibre-based service after the copper exchange is decommissioned
    - development of an appropriate technological solution to transition 'public interest systems' from the copper network onto the National Broadband Network fibre network, and
- USO Co operational costs.

The Government will be guided by the following principles/objectives in developing the funding arrangements for USO Co as they affect industry contributors:

- achieve equitable funding contributions
- minimise the transaction costs and compliance burden, and
- provide medium to long term certainty on funding arrangements and level of contributions.

Responsibility for Funding Arrangements

The changes outlined by the Government's June 2010 policy statement, centred around the establishment of USO Co, raise the threshold question of ongoing responsibility for funding arrangements. Views are sought on whether (and to what extent) levy arrangements should remain with the ACMA or transfer to USO Co.

3.7(1) Should the ACMA continue to retain responsibility for levy determination/collection/distribution, or should these responsibilities (in part or in total) be transferred to USO Co?

Levy calculation mechanism

An objective of the current legislation is that providers of telecommunications services should contribute, in a way that is equitable and reasonable, to the funding of the Universal Service Obligation and the National Relay Service. The levy amount imposed on a carrier is proportional to the carrier's share of total industry 'eligible revenue'. However, by its nature a levy system has some market distortionary impacts and compliance costs. Therefore, consideration of future options should explore how to minimise these impacts over time and promote equitable and sustainable contributions from providers. Views are sought on these issues.

3.7(2) What are possible options to simplify and more closely align the operation of the current Universal Service Obligation and National Relay Service levy schemes?

3.7(3) Noting the previous question on the alignment of levy schemes, views are sought on whether an annual revenue threshold for levy contributors should be in place? If so, what would be an acceptable level for this threshold?

3.7(4) Should alternative arrangements be considered to determine how contributions to the Universal Service Obligation levy are calculated? For example, should the revenue base used to calculate contributions be expanded?

Pool of eligible contributors

Currently, eligible contributors to the levies are restricted to carriers as defined under the *Telecommunications Act 1997*. In seeking to refine the approach of how levy arrangements are calculated, there may be some justification for expanding the scope of possible contributors. For example, the scope of contributors could be expanded horizontally, to include carriage service providers as defined under the *Telecommunications Act 1997*. Views are sought on this.

3.7(5) Is there justification for expanding, for example 'horizontally', the scope of contributors to the Universal Service Obligation levy scheme? Are there other options worth exploring?

Funding security

USO Co needs to have in place arrangements to ensure it has access to sufficient funds on an ongoing basis to enable it to operate and deliver on its responsibilities.

3.7(6) What are the appropriate mechanisms for ensuring USO Co has sufficient resourcing to undertake its activities?

3.7(7) What other funding issues should be considered?

Chapter 3.8: Institutional arrangements for USO Co

Overview

This chapter discusses the proposed changes to institutional arrangements in support of the Government's announced future universal service framework, centred on the establishment of USO Co.

Current arrangements

The Universal Service Obligation and its operations are key elements of the Government's policy framework, which aims to provide reasonable and equitable access to telecommunications services for all Australians, wherever they live or carry on business.

The *Telecommunications (Consumer Protection and Service Standards) Act 1999* sets out the arrangements for fulfilling the Universal Service Obligation. As the Primary Universal Service Provider, Telstra is responsible for the delivery of the Universal Service Obligation, including preparing a policy statement and SMP outlining how it will meet these obligations. The ACMA is responsible for approving the policy statement and SMP, and for assessing Telstra's compliance with the Universal Service Obligation.

Government policy and rationale

USO Co will be a non-commercial body responsible for the delivery of the Universal Service Obligation and related public interest service arrangements.

In the first instance, consistent with the Government's policy statement, USO Co's responsibility for the delivery of the Universal Service Obligation and other public interest services will predominantly be through contracts with Telstra. However, over time it is expected that these contracts will be contestable. USO Co may also have the future capacity to 'unbundle' delivery of the Universal Service Obligation into infrastructure and retail components.

At this time it is not anticipated that USO Co will have any regulatory powers or functions, or that USO Co will be a service provider in the market. The focus for USO Co will be on facilitating delivery of the Universal Service Obligation and related public interest services.

The institutional and operational arrangements for USO Co will be informed by the framework detailed in the Department of Finance and Deregulation's publication Governance Arrangements for Australian Government Bodies 2005, and by the following key principles:

- accountability
- transparency
- efficiency, and
- consultation.

Implementation issues

Structure and governance

The Government is interested in views on the relevant governance and oversight arrangements for USO Co, the degree of autonomy and business reporting requirements, and the level of USO Co interaction with Government and regulators. Although these issues are principally for the Government to decide, views are welcomed, as are good practical examples on how these arrangements could be implemented.

3.8(1) What are the appropriate governance and institutional arrangements that USO Co should have in place? How should USO Co interact with Government?

Transparency, accountability, review and resources

As stated above, it will be critical for USO Co to be appropriately transparent and accountable in its operations. USO Co will also require suitable review processes and feedback mechanisms, and sufficient access to resources to ensure effective delivery of services. Views are sought on the appropriate mechanisms for USO Co, including reporting requirements to Parliament/Government, and other stakeholders, such as complaints handling and appeals processes.

3.8(2) What mechanisms should be in place to ensure the accountability of USO Co for its operations? How should transparency of decision-making be best achieved?

3.8(3) What complaints/review/appeals processes should be put in place? Is there a need for some form of independent decision-maker in the event of a dispute? If so, who?

3.8(4) What processes should be in place to ensure USO Co is sufficiently resourced to deliver on its functions?

Powers and responsibilities necessary to fulfil its role

Views are sought on the appropriate limits of USO Co's powers and responsibilities, and whether these could include, for example, information-gathering powers in support of its commercial agreements with providers.

3.8(5) What are the appropriate powers that USO Co should be able to exercise in the delivery of its responsibilities?

Consultation/Engagement

Effective consultation will be essential to USO Co's ongoing activities. In undertaking this consultation, USO Co's engagement of several key stakeholders will be critical going forward.

ACMA

The ACMA will continue as the industry regulator and will retain regulatory functions under the new arrangements. How these functions interact with the commercial arrangements USO Co will put in place is to be settled, including the transfer of responsibility for delivering these services and ensuring the effectiveness of ongoing delivery of the obligations. The ACMA and USO Co will work closely in the delivery of these arrangements.

NBN Co Limited
As outlined in the Government's policy statement, USO Co will work closely with NBN Co Limited as the National Broadband Network is rolled out. Part of this will include where appropriate, coordinating any additional infrastructure investments that come out of USO Co's contracting of third party providers.

Industry
Initially, USO Co will contract with Telstra for delivery of a number of services but over time will seek to open these arrangements up to contestability. Fundamental to USO Co's ongoing operations will be engaging with industry, in particular, in the effective delivery of these services. Industry will be providing funding towards these arrangements, and as such USO Co would look to garner further practical assistance from industry to this end.

Consumers
A further consideration will be how consumer groups are engaged in USO Co's activities. The Government is currently considering appropriate arrangements for engaging stakeholders in this policy framework, including mechanisms for providing some form of advisory role to USO Co and input to USO Co's strategic activities.

Views are sought on appropriate avenues for engaging stakeholders and enabling industry and consumer groups in particular to more directly engage in the delivery of these services.

3.8(6) What is the most appropriate role for stakeholders to be engaged in USO Co's decision-making and operations? For example, would an advisory board of stakeholders to advise USO Co be a useful step? If so, how would it work? If not, what other alternatives are there?

3.8(7) Are there other institutional issues that should be considered?

Chapter 4: Time for submissions and contacts

4.1 Closing date for responses

The closing date for responses to this consultation paper is 3.00 pm EDT on Friday 5 November 2010.

4.2 Format requirements

For each submission, please include a cover sheet downloaded from *www.dbcde.gov.au/usp*.

The cover sheet must include the names of the parties providing the response and (if relevant) the names of the organisations they represent along with contact details including email addresses.

Please email submissions to uso@dbcde.gov.au.

All emailed submissions should adhere to the following requirements:

- Include the submitter's full name (whether individual or organisation) in each file name and indicate whether the file concerned is a submission or an appendix to a submission.
- Submit the main document in Microsoft Word or in a compatible format. Acceptable files formats for attachments are PDF (not secured) GIF, TIFF, JPG, TXT or ZIP.
- The total file size of your submission, including the main submission and any attachments, should not exceed 3 MB.

If you must provide any material as hard copy, please send it, along with the cover sheet, to the address at page 37.

4.3 Publication of submissions

Please note that the Department intends to publish submissions on its website.

However, the Department reserves the right not to publish any submission, or part of a submission, which in the view of the Department contains potentially defamatory material, or where it considers it appropriate to do so for confidentiality or other reasons.

Please note that some delays in publishing submissions may occur if a large number is received. If the Department receives a submission from a person or organisation more than once it will publish only one format of that submission.

The Department will not acknowledge receipt of submissions.

4.4 Confidential information

All submissions will be treated as non-confidential information unless specifically requested. Email disclaimers or confidentiality markings will not be considered sufficient confidentiality requests. Note that submissions or comments will generally be subject to freedom of information provisions.

The Department intends that any information lodged will be able to be made publicly available to facilitate public consultation and debate. The Department recognises, however, the need to protect certain information where public disclosure may harm the legitimate commercial interests of a submitter.

If a submitter considers that information should be kept confidential, it may identify this in its submission together with the reasons. The Department will consider the request for confidentiality, but gives no undertaking that the information will be kept confidential. Any decision to keep the information confidential or make it publicly available is at the Department's discretion.

If the Department decides that particular information for which confidentiality is claimed should be made publicly available, it will advise the relevant submitter and give the submitter the opportunity to consider whether it wishes the information to remain part of its submission and be made public, or to withdraw the information from its submission.

In relation to information that the Department agrees to treat as confidential, submitters should be aware that the Department is subject to the legislative and administrative, accountability and transparency requirements of the Commonwealth, including disclosures to the Parliament and its Committees.

Accordingly, submitters are advised that any information (whether confidential or otherwise) contained in or relating to any material submitted relating to the implementation of the Government's Universal Service Policy for the transition to the National Broadband Network environment may be disclosed:

- to responsible Ministers
- in response to a request by a House or a Committee of the Parliament of the Commonwealth of Australia
- within the Department, or to another agency, where this serves the Commonwealth's legitimate interests
- where the information is authorised or required by law to be disclosed, noting that all information lodged with the Australian Government is subject to the *Freedom of Information Act 1982* and its requirements, or
- where the information is in the public domain.

4.5 Privacy

The Department is subject to the operation of the *Privacy Act 1988*. Any personal information you provide to the Department through your submission to this discussion paper is used only for the purposes of consideration of issues raised in this paper.

4.6 Lobbyists

The Australian Government has released a Lobbying Code of Conduct designed to ensure that lobbying activities are carried out ethically, honestly and transparently. Information about the Register of Lobbyists and a link to the Lobbying Code of Conduct can be viewed at *http://lobbyists.pmc.gov.au*.

Lobbyists should ensure they are familiar with, and comply with, the Code of Conduct and are on the Register of Lobbyists.

Please note that a person who makes a submission on behalf of another person or on behalf of a company in response to a call for submissions does not need to be registered as a lobbyist.

4.7 Stakeholder briefings

The Department is offering briefings on an individual basis. If you are interested in a briefing, or wish to ask any questions regarding the process for responding to this discussion paper, please email or telephone:

Assistant Secretary
USO Branch
Department of Broadband, Communications and the Digital Economy
GPO Box 2154
Canberra ACT 2601

Tel: 02 6271 1382
Email: uso@dbcde.gov.au

Table 1.1: Features of a standard telephone service that apply regardless of provider

Feature	*Source*
Must provide option of untimed local calls (mobile telephone services are exempt from this requirement)	Part 4 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*
Service connection and repair, and meeting timeframes	Part 5 of the Telecommunications (Consumer Protection and Service Standards) Act 1999 and the Customer Service Guarantee Standard 2000 (No 2)
Telecommunications Industry Ombudsman membership scheme	Part 6 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*
Access to emergency call services	Part 8 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*
Operator assisted services (including for dealing with faults and service difficulties)	Part 2 of Schedule 2 to the *Telecommunications Act 1997*
Directory assistance	Part 3 of Schedule 2 to the *Telecommunications Act 1997*
Itemised billing	Part 5 of Schedule 2 to the *Telecommunications Act 1997*
Call interception capability by law enforcement agencies	Part 15 of the *Telecommunications Act 1997* and the *Telecommunications (Interception) Act 1979*
Pre-selection (i.e. ability to select an alternative carriage service provider for national and international calls)	Part 17 of the *Telecommunications Act 1997*
Calling line identification	Part 18 of the *Telecommunications Act 1997*
Number portability	Part 22 of the *Telecommunications Act 1997* and the *Telecommunications Numbering Plan 1997*

Table 1.2: Features specific to a standard telephone service supplied in fulfilment of the USO

Feature	*Source*
Must offer customer equipment (the requirement to offer standard telephone service equivalent for people with a disability is explicit)	Sections 6, 9 and 9E of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*
Must provide option of untimed local calls (including for mobile telephone services)	Part 4 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*
Access to alternative and interim services	Telstra's Standard Marketing Plan and the Customer Service Guarantee Standard 2000 (No 2).
Service connection and repair, and meeting Standard Marketing Plan timeframes	Telstra's Standard Marketing Plan and Part 5 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and the Customer Service Guarantee Standard 2000 (No 2).

Table 1.3: Features that apply only to a standard telephone service provided by Telstra

Feature	***Source***
Retail price regulation	Part 9 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*
Priority Assistance arrangements for people with life threatening illnesses	Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997
Network Reliability Framework	Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997
Access to Directory Assistance and operator services	Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997
Low income support measures	Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997
Differential charging for standard telephone service with and without handsets	Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997
Internet Assistance Program – speed of dial-up Internet access via a standard telephone service provided in fulfilment of the USO	Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997

Appendix B: Excerpt from *Telstra's Standard Marketing Plan* – Payphones

Criteria for the Provision of Telstra Operated Payphones

Telstra will provide and maintain a payphone on an equitable basis considering all reasonable financial and siting implications. Consequently, an assessment framework is to be applied on a case-by-case basis, to determine if the provision of a Telstra operated payphone can be justified. More information is available on www.telstra.com about Telstra payphone locations and mobile coverage (www.telstra.com.au/mobile/networks/coverage/maps.cfm)

The assessment framework is as follows.

Table 1 Payphone Eligibility Criteria

Location	**Telstra will provide one or more payphone facilities where provision and maintenance of the facility is considered commercially viable.**	**Telstra will provide one or more payphone facilities where it is not commercially viable but where it is assessed that projected revenues will at least cover the depreciation and maintenance costs of providing and maintaining the facility and there is no payphone within approximately…**	**Telstra will provide one or more payphone facilities where it is not commercially viable and where it is assessed that projected revenues will not cover the depreciation and maintenance costs of providing and maintaining the facility and there is no payphone within approximately….**
Retail Centres	Yes	1 km	No
Entertainment venues	Yes	1 km	No
Transport hubs	Yes	1 km	No
Health and Community facilities	Yes	1 km	No
Residential communities in cities and towns with average or high level of home telephone connection	Yes	2 km	No
Residential communities (incl. caravan parks and holiday units) in cities and towns with low home phone connection	Yes	1 km	1 km
Industrial or commercial areas	Yes	2 km	No
Small villages and towns (incl. holiday areas)	Yes	40 km	40 km

Location	Telstra will provide one or more payphone facilities where provision and maintenance of the facility is considered commercially viable.	Telstra will provide one or more payphone facilities where it is not commercially viable but where it Is assessed that projected revenues will at least cover the depreciation and maintenance costs of providing and maintaining the facility and there is no payphone within approximately…	Telstra will provide one or more payphone facilities where it is not commercially viable and where it is assessed that projected revenues will not cover the depreciation and maintenance costs of providing and maintaining the facility and there is no payphone within approximately….
Within state or national parks, where there are permanent facilities and regular park staff visits,	Yes	40 km	100 km
Small service centres on highways and major roads in rural and remote areas where there is adequate mobile service	Yes	100km	250km
Small service centres on highways and major roads in rural and remote areas where there is inadequate mobile service	Yes	100 km	200 km
Small remote communities, incl. Indigenous outstations	Yes	Yes, if as a general rule with a permanent population of more than 20 adult residents, or 50 people in total.	Yes, if as a general rule with a permanent population of more than 20 adult residents , or 50 people in total.

However, a service will not be provided where it is impracticable to do so. Such cases may be:

- where a privately operated payphone is reasonably available and which offers a level of access at call charges which are reasonable in the circumstances, or;
- where a Telstra facility has previously been subject to, or reasonably likely to be subject to excess levels of damage, or;
- where a Telstra facility is subject to very high installation costs, or;
- where the health and safety of the general public or staff would be placed at high risk relative to the proposed location of the payphone.

Telstra will however, also take into account any unique or special circumstances in the assessment of a request for the provision of a payphone service. Where Telstra believes it would be impracticable to provide a payphone in an eligible location, it will make reasonable efforts to work with the requestor to identify and agree upon an alternative site.

Removal of a Telstra Operated Payphone

Where there is more than one payphone at a particular site, Telstra may reduce the number of payphones at that site, to a minimum of one, as considered necessary. Factors influencing this reduction may be:

- changes in usage and demand as assessed by Telstra;
- where one or more of the payphones is an obsolete product or technology; and
- where changes are made to the booth type to improve access or to meet site owner needs.

Where a payphone is the only payphone at a site, in addition to factors above, Telstra may also remove that payphone where;

- the site no longer meets the criteria for a payphone as outlined in Section 3.8;
- where there is demonstrable evidence, and community agreement, that the local community no longer want the payphone;
- where there has been significant or sustained costs due to repeated misuse and damage to the facility; and
- where the health or safety of the public or Telstra staff is at high risk due to issues relating to the location of the pay phone.

Before removing the facility Telstra will consult with the local community, site owner, and local Government authority. This will include the posting of a notice in the facility for at least three months, indicating Telstra's plan to remove the facility and inviting comment. Any comments provided by the local community, site owner, and local government authority will be taken into account in making a final decision about removal of the service. The letter, which Telstra provides the local government authority, includes information that is materially similar to that in the notice posted within the facility. A notice may not be posted before a payphone is removed if:

- the payphone facility is being re-sited, and the new site is within line of sight of the existing one;
- the payphone is located internally at a privately owned site;
- the payphone is being removed to allow commercial works, road alterations, etc, to occur; or
- the payphone facility has been severely damaged by vandalism and alternate sites are not available.

In a situation where a payphone is the only payphone at a public site and has been destroyed by an accident, Telstra will post a notice informing the local community of any intention to relocate or remove the payphone. Where possible, the notice will be posted at the site of the payphone destroyed by the accident but there may be factors that prevent Telstra from being able to give effect to this requirement. In such instances, Telstra will use an alternative method for notification, for example, written advice to the local council or community group, or a notice in the local newspaper.

The notice referred to above contains the following information:

- Telstra contact details;
- written advice regarding the removal outcome will be provided where requested;
- timeframe in which consumers need to provide comment if required;
- location of the nearest payphone; and
- decision to remove payphone is based on criteria within the Standard Marketing Plan.

Interested parties may submit comments on the proposed removal by writing to the Payphone Siting Manager, Locked Bag 6658, Sydney, NSW, 2001.

Telstra will acknowledge in writing all written comments received regarding the removal of the payphone within 5 working days and will advise of the final decision in writing, if requested, within 30 days of the end of the 3 month notification period.

Where a relocation request is made for a removal or relocation of a payphone and that request does not meet one or more of the criteria above then the requestor, including Local, State or Federal government authorities, may be asked to fund the part or total cost of the relocation. Examples are where the site is impacted by alterations in the surrounding environment such as road widening or commercial development activity, or where a relocation or removal request is made which only benefits the requestor and not the whole community.

Relocation of a Telstra Operated Payphone

Where there is one or more payphones at a particular site, Telstra may relocate some or all of the payphones at that site as considered necessary. The criteria for relocation are:

- changes in usage and demand as assessed by Telstra;
- the site no longer meets the criteria for a payphone as outlined in Section 3.8;
- where there is demonstrable evidence, and community agreement, that the local community no longer want the payphone;
- where there has been significant or sustained costs due to repeated misuse and damage to the facility; and
- where the health or safety of the public or Telstra staff is at risk high risk due to issues relating to the location of the payphone.

Telstra will consult with the local community, site owner, and local Government authority where it is intended to remove and relocate all the payphones at a particular site section 3.8.2 refers to this consultation process. A relocation activity involves both a removal and a new installation therefore a removal activity may not occur until the consultation and agreement of the new site is completed. Where a payphone is the only payphone at a site before relocating the facility Telstra will consult with the local community, site owner, and local Government authority. This will include the posting of a notice in the facility for at least three months, indicating Telstra’s plan to relocate the facility and inviting comment. Any comments provided by the local community, site owner, and local government authority will be taken into account in making a final decision about relocation of the service. The letter, which Telstra provides the local authority, includes information that is materially similar to that in the notice posted within the facility. A notice may not be posted before a payphone is relocated if:

- the payphone facility is being relocated, and the new site is within line of sight of the existing one;
- the payphone is located internally at a privately owned site;
- the payphone is being relocated to allow commercial works, road alterations, etc, to occur; or
- the payphone facility has been severely damaged by vandalism and alternate sites are not available.

Where a relocation request is made for a removal or relocation of a payphone and that request does not meet one or more of the criteria above then the requestor, including Local, State or Federal government authorities, may be asked to fund part or total cost of the relocation. Examples are where the site is impacted by alterations in the surrounding environment such as road widening or commercial development activity, or where a relocation or removal request is made which only benefits the requestor and not the whole community.

The notice referred to above contains the following information:

- Telstra contact details;
- written advice regarding the removal outcome will be provided where requested;
- timeframe in which consumers need to provide comment if required;
- location of the nearest payphone; and
- decision to remove payphone is based on criteria within the Standard Marketing Plan.