

○ CAN A WIRELESS FUTURE SAVE US FROM A REGULATORY SCHEMOZZLE?

The regulatory stand-off that Australia currently finds itself in on national broadband infrastructure investment is, ironically, to a large extent the unintended consequence of Telstra's very effective lobbying in the mid-1990s to move telecommunications from a regime of industry-specific regulation to one of general competition law. This was timed to coincide with the legislation needed in 1997 to support the foreshadowed change from a duopoly fixed network market (with 'triopoly' mobile networks) to open-ended competition in the provision of most network-based services.

From 1991 to 1996 the incumbent telco was becoming thwarted by an increasingly knowledgeable industry regulator. AUSTEL was having success in systematically removing or diminishing technical barriers to fair competition, whether those barriers were the capacity limits of legacy systems or more recently 'optimised' processes. The change to broad economic regulation had a willing supporter in the then ACCC Chairman, Alan Fels, who conveyed a profound belief in the ability of economic principles alone, when suitably enforced by legislation, to better protect the long-term needs of telecommunications users. The change was even more strongly supported by Telstra's consultant, Henry Ergas – whose recent book 'Wrong Number?', highly relevant to the NBN debate, is critically reviewed in this TJA issue.

However Telstra's competitors, and the advocates for the business and consumer telecommunications user groups, did not accept those radical proposals for change of the regulatory regime lying down. The end result was an accompanying major extension of the Trade Practices Act, its Parts XIB and XIC, to ensure that the incumbent telco would not abuse its inherited monopoly ownership of key access infrastructure, on which any-to-any connectivity of public communication services continues to depend. However it took the ACCC, who regrettably retained very few of AUSTEL's staff and hence their accumulated expertise, several years to 'climb the learning curve' and become aware of the vast repertoire of techniques by which a technically savvy incumbent can postpone and diminish unwelcome competition. By then they perhaps realized that the former industry regulator's powers to arbitrate on unresolved issues of process as well as price would have come in handy.

A particularly lucid paper by Meena Chavan and Holly Raiche in this issue of TJA analyses the effectiveness of the post-1997 access regime, and finds it unsatisfactory from the points of view of both access providers and access seekers. The somewhat frustrated former regulator, Professor Fels, together with the current Productivity Commission chairman, Gary Banks, have pronounced themselves in favour of structural separation of any monopolistic infrastructure, in order to achieve a level playing field for retail competition, in the national interest. Not surprisingly, this is also supported by Telstra's competitors. Equally unsurprisingly Telstra, looking after the interests of its shareholders, is violently opposed, to the point at which it has recently issued an ultimatum to the Government: unless structural separation is ruled out for the proposed National Broadband Network (NBN), Telstra will not bid for it.

Within a few months of this November issue of TJA appearing, we will learn if the Australian Government has kept its nerve and put the national interest first. The Government will be very tempted to accept Telstra's condition, as the fastest path to implementation of the NBN, so that

it can tell a perhaps not too discerning public that it has kept its election promise to roll out a 12 Mbps access NBN. The fact that this decision would then entrench a monopoly on optical fibre-delivered broadband services for ten to twenty years, with consequent much higher retail prices and the likely lagging of advanced products behind those available overseas, would infuriate much of the business community but perhaps have less impact on the general electorate.

BUT WHAT ABOUT THE WIRELESS (BROADBAND ACCESS) FUTURE?

In our May 2008 issue, Unwired's CEO David Spence suggested that the end user's desire for 'personal broadband', rather than building-specific broadband, would favour the take-up of mobile broadband services to meet most communications, information and entertainment needs. Would the Federal Government's proposed spending of \$4.7B on fixed network infrastructure prove to be a white elephant? The Minister for Communications had ridiculed the previous government's proposed roll-out of an optical fibre backbone network with wireless access, when cancelling that project; was this wise?

The steady worldwide roll-out of WiMAX provides evidence of its credibility as a platform for wireless broadband delivery. Furthermore Telstra itself has declared that its 3G mobile platform has the capability to provide a competing mobile NBN to the Federal Government's fixed NBN. These and other wireless technology platforms – including a revival of interest in high altitude platforms – are reviewed in three papers within this issue of TJA.

The availability of sufficient spectrum for these services becomes a crucial issue. Thanks to the efforts of fellow TJA Editor John Costa, this issue features five papers on worldwide progress towards spectrum reform.

Finally, the future of wireless surely depends most critically on the content delivered, especially to motivate end users to spend money to convert their radios, TVs, mobile phones and computers to new, more versatile technologies.

Our section on 'Digital radio and mobile content' contains Jock Given's revealing account of a second schemozzle – the halting process towards digital radio services – as well as a brilliant and authoritative paper on the 'new content services regime', by Monash University academics Sharon Rodrick, Melissa de Zwart and David Lindsay.

AND BROADBAND FOR THE SUSTAINABLE ENVIRONMENT?

I am pleased to report that the response to the 2008 Eckermann-TJA Prize, generously sponsored by Alcatel Lucent as the \$10,000 Broadband Challenge for the Sustainable Environment, was so good that we received nine worthy candidate papers, of which the eight best will be published in a special issue of TJA in February 2009.

My thanks go to the members of the TJA Editorial Advisory Board for sourcing (and reviewing) so many excellent papers for this bumper November issue, and to our Executive Editor, Blair Feenaghty, for skilfully preparing them for publication. Special thanks also go to the Australian Computer Society's Telecommunications Board for supporting this venerable 75-year-old Journal in its modern, online format, thus enabling TJA to continue informing debate on the most critical public policy issues in both Australian and worldwide telecommunications.

Peter Gerrand, Managing Editor