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Submission to Telecommunications Inquiry

As in my 1996 submission I would also in this year's submission like to concentrate on the broadband issues and I have grouped the current problems in the Australian broadband market as follows:

Content monopoly Pay TV

- The current content monopoly enjoyed by the three pay TV operators has severely hampered the development of both the pay TV and the broadband market especially in regional Australia. We therefore strongly support the ACCC's bid to limit further damage by their suggested establishment of a more viable pay TV market as a platform for broadband services in regional markets.

Regulatory implementations ADSL and ULL (unbundled local loop)

- As far as the interconnect battle goes, Telstra doesn't look like being very forthcoming with a commercially viable ADSL (Asymmetrical Digital Subscriber Line) service. By keeping its wholesale prices high (anticipated to be two to three times the price of comparable services in the USA) it is able to establish a very high retail price for itself – again many times the price of similar services overseas. (Retail prices for high-speed Internet are: Singapore US\$20, USA from US\$25 and Europe from US\$35). Furthermore the poor state of the network could delay nationwide coverage by 4 years and produce cumbersome terms and conditions to wholesalers could, as we have seen in the fixed telephone market, easily cause delays of 2 to 3 years.

Digital TV and datacasting

- Digital TV and datacasting is to be banned by the government's repressive regime, against the advice of the Productivity Commission, consumer and farmers organisations, as well as the industry. It looks like the Kerry Packer lobby is a whole lot stronger than the lobbying power of the rest of the country combined. It is very reminiscent of the cable TV debate that I was involved in during the mid nineties – the same regime that the ACCC now admits has prevented development of broadband markets in this country. And, once again, it will be regional users and people in the lower income brackets that will be most affected. It would be an economic calamity if today's government were able to force a delay of 5 to 8 years on the developments in this market like the previous governments did with satellite, cable- and pay TV.

Open cable TV and satellite networks

- With the delays of ADSL and digital TV, cable and satellite modems are one of the only other options for residential users. The merger between chello and excite@home might be good for the companies involved, but this is not necessarily so for end-users as the potential is there to limit competition and drive up prices. This – combined with the fact that Optus and Austar (the respective pay TV partners of excite and chello) are also talking about merging their pay TV operations, and taking into account the content monopoly that exists in the pay TV market – makes this development even more significant.

Recommendations

Based on the above mentioned problems, I would like to make the following recommendations to the Inquiry:

- Commitment from the government that they will act upon the outcome and recommendations of this Inquiry.
- Empower the ACCC to prevent further delays in implementing a more pro-competitive environment (ie ULL and ADSL wholesale).
- Introduce specific legislation to provide non-exclusive access to programming, such as pay TV content.
- Incorporate digital TV, datacasting, satellite and cable TV networks into the Telecommunications Act as telecommunications access technologies. There should be no regulatory discrimination between the various telecommunications access technologies.
- Content issues should be addressed by a technology neutral body. For example, the ABA (this of course would necessitate a change in the ABA's brief).

While the incumbents want a relaxation of the regulatory environment there are still many battles to be fought before Australians will be able to use broadband services. So what is the solution?

I would now like to address the individual recommendations:

- **Commitment from the government that they will act upon the outcome and recommendations of this Inquiry.**
Inquiries and ACCC deliberations are used by governments and the incumbents more to delay competition than to stimulate it. Often the results of these Inquiries are largely, or even totally, ignored by the government. So, first of all we need to have a stronger commitment from the government that they will act upon the recommendations of the specialists they employ. These organisations request submissions from a broad representation of the industry and the community at large. They put a lot of effort into their submissions and then see them ignored by the government.
- **Empower the ACCC to prevent further delays in implementing a more pro-competitive environment (ie ULL and ADSL wholesale).**
Secondly, the government should empower the ACCC to put a stop to further delays in implementing a more pro-competitive environment. Lip service is alone is clearly not enough and the additional powers provided in late 1999 are obviously not working. Why can issues such as interconnect and access be implemented in Europe within 3 months when it takes 3 years to do so in Australia. The self-regulatory nature of the industry is used by the incumbents to delay viable competition for as long as possible. Upcoming determinations on ADSL, pay TV, cable TV, etc. should be implemented immediately rather than allowing the incumbents to delay this again for 3 years or so.
- **Introduce specific legislation to provide non-exclusive access to programming, such as pay TV content.**
- **Content issues should be addressed by a technology neutral body. For example, the ABA (this of course would necessitate a change in the ABA's brief).**
Thirdly the pay TV issue as addressed by the ACCC should be implemented immediately, but, even more importantly, should include an open-access regime on digital cable TV as well – allowing third parties to use the cable and satellite networks from Telstra, Optus and Austar. These three companies combined have the ability to totally dominate access to the broadband market, and this market should be opened up, either following the Inquiry or earlier, as a prerequisite to further mergers in this marketplace.

- **Incorporate digital TV, datacasting, satellite and cable TV networks into the Telecommunications Act as telecommunications access technologies. There should be no regulatory discrimination between the various telecommunications access technologies.**

Lastly, the Inquiry should also address the digital TV/datacasting issue. In order to protect the commercial businesses of two free-to-air broadcasters, worth around \$3 billion, the government is preventing critical developments in the broadband market estimated by us to be worth over \$50 billion by 2006. As 50% of all global investments are currently related to telecommunications/information highways, the government should stimulate developments in the market. The present regime not only deprives a large proportion of Australians of access to the information highway (50% of the population does not have a PC, but does have a TV), it also forces companies and their investments to move offshore to develop broadband technologies outside Australia.

Yours sincerely

PAUL BUDDE COMMUNICATION PTY LTD

A handwritten signature in black ink, appearing to read 'Paul Budde', written over a horizontal line.

Paul Budde
Managing Director