



44 Avenue Road
Mosman NSW
Australia 2088

T : 61 2 8968 7100
F : 61 2 9969 3520
W : freetv.com.au

12 February 2010

By email: feedback@nbnco.net.au

Dear Sir/Madam

NBN CO CONSULTATION PAPER: PROPOSED WHOLESALE FIBRE BITSTREAM PRODUCTS

Free TV Australia represents all of Australia's commercial free to air (FTA) television broadcasters. Free TV welcomes the opportunity to comment on the NBN Co consultation paper *Proposed Wholesale Fibre Bitstream Products*.

Free TV notes the paper seeks comment on the merits of including an RF Overlay for the provision of television services. Free TV does not support the inclusion of an RF layer on the NBN as it is likely to give rise to significant competition and access issues.

As noted in Free TV's October 2009 submission on the draft Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2009, we understand that the most commercially viable and cost-effective model for an RF layer would involve the delivery of a single subscription service, managed by a single subscription service provider.

The assignment of capacity for the delivery of television services to a single player clearly has the potential to limit competition in the provision of television and television-like services over the NBN. Such a provider would have no incentive to negotiate openly with other providers, such as FTA broadcasters, who could be blocked from making their services available on the NBN. Such a provider is also likely to gain unacceptable market power arising from the ubiquity of its service and control over the content that might be provided on the RF layer.

The inclusion of an RF layer on these terms would not be consistent with the NBN Co's stated objectives of delivering a level competitive playing field and promoting maximum end-user choice in terms of both services and providers.

Advice indicates that the technology required to address these issues and make the RF layer an open and accessible platform would be prohibitively expensive. We understand that in order to enable multiple users, additional exchange equipment and customer premises equipment would be required, which would increase the cost.

It would appear therefore that the inclusion of an RF layer on these terms would not be consistent with the NBN Co's stated objectives of delivering cost-effectiveness and a commercially viable network.

Access to the NBN for the delivery of television services should be consistent with the underlying Government objectives for an open, wholesale-only NBN providing pricing and

access equivalence. It appears unlikely the provision of an RF layer would achieve these objectives.

Thank you once again for the opportunity to comment on the consultation paper.

Yours sincerely

Julie Flynn
CEO