The Australian

The gouge is on for NBN users

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WHEN Ralph Willis announced his telecommunications reforms in 1989, he delivered immediate price reductions and a price cap under which prices would fall steadily in real terms. Willis's reforms ushered in a long period of productivity increases that allowed price declines up to the present day.

In contrast, it is now clear this government's national broadband network will involve a huge slug to consumers. Indeed, Australia will become the only advanced economy where telecommunications prices rise steadily over time.

That is, if NBN Co's proposed special access undertaking is accepted by the Australian Competition & Consumer Commission.

Once approved, that SAU would determine the prices NBN Co could charge. And an NBN Co discussion paper shows those prices could be very steep indeed.

Inevitably, there is a sweetener. NBN Co proposes a five-year freeze on prices for basic services, followed by a further five years in which they would increase at half the consumer price index. But like many teaser rates, those promises hardly provide adequate protection.

To begin with, consumers will still face rising bills. This reflects an important difference between the NBN's proposed charges and current regulated prices. To rent Telstra's copper lines, competitors pay a flat fee, regardless of how much data their consumers transmit or receive.

But service providers will pay the NBN both a monthly fee and a volume-related charge, even though data volumes barely affect the NBN's line costs.

And according to NBN Co's corporate plan, average consumer usage grows 30 per cent a year. So even were the current price per bit kept constant, the average monthly usage payment to NBN Co per household would rise from $1 in 2013 to more than $100 in 2028.

Moreover, the truly high speed services, NBN's raison d'etre and the source of its touted social benefits, are excluded from the price freeze.

Charges for these and for business services would be allowed to rise by the inflation rate plus 5 per cent a year. This contrasts with Telstra's copper, whose price has fallen 7 per cent annually in real terms since 2000.

On top of that, NBN Co, whose early years will be a sea of red ink, proposes to roll forward losses; that is, accumulate them for later recovery. That is fine, but it wants to apply to that accumulating amount a cost of capital - effectively a compound interest rate - whose starting rate exceeds 20 per cent.

NBN Co would later be allowed to raise prices, including for basic service, to recover the total amount outstanding.

Another element then magnifies the scope this gives NBN Co to gouge future consumers. With Telstra, the ACCC defers depreciation costs to the network's later years and then effectively writes them off. But NBN Co's approach brings more of the depreciation charge up-front. That increases the early losses, tipping added dollars into the pool where they compound at those high interest rates.

To justify those high rates, NBN Co points to the returns an ordinary business would require. But ordinary businesses are not granted monopoly privileges, including exemptions from competition laws. Sure, NBN Co wants the high returns; but they reward risks the government has ensured NBN Co doesn't face.

Moreover, central to the government's case for the NBN was that it "would not need to make the rate of return that the telco sector is used to". "This project", Stephen Conroy promised, only requires "a modest return of 6 to 7 per cent". And no less an authority than Julia Gillard said a return a smidgen above the commonwealth bond rate would be "a viable rate of return" for the NBN, "recovering all its funding costs".

Yet NBN Co now wants to charge consumers on the basis of rates of return that start at seven times the bond rate, and that even when the network is fully mature, remain far above it.

Reconciling the government's repeated claims with NBN Co's ask must put the ACCC in a difficult position. And those difficulties are all the greater because the Garnaut report and now the NSW regulator argue that allowing government utilities returns well above the bond rate causes serious distortions, including over-investment. Tight controls, those reports say, are therefore needed to ensure those returns are only sought on investments that pass a strict cost-benefit test, so that consumers would freely choose to see them undertaken.

Nowhere is that need stronger than in the NBN, where politics dominates over economics. But NBN Co's approach specifically rules out such scrutiny of its spending. Rather, it proposes that the investments made to provide fibre access to 93 per cent of premises be "deemed efficient" and hence excluded from regulatory review.

It seems difficult to believe the ACCC could do anything but reject that exclusion outright. And if it then assessed how much of the investment would be justified in cost-benefit terms, 40 per cent or more of NBN Co's proposed spending could be written off. The government might proceed with those outlays; but it would have to finance them through on-budget subsidies to NBN Co, instead of by taxing captive consumers.

That, of course, won't happen. Rather, the government has demonstrated its willingness to sacrifice every principle of sound public policy to get its way. It can, and likely would, try to direct the ACCC to accept the most offensive aspects of NBN Co's SAU.

That exposes consumers to huge risks. Not according to NBN Co of course, which points to price declines promised in its corporate plan. But that plan can be changed at will, and consumers have no recourse if NBN Co's actions belie its promises. In contrast, the SAU is legally binding. And once it is in place, NBN Co can do whatever it permits.

So now is the time for the ACCC to stand up for consumers. No one else will. And that is why it exists as an independent statutory body. It has made its share of mistakes. Here's a chance for its new chairman to show it remains an institution well worth feeding.

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