



Australian Government

Department of Communications and the Arts

Our Reference: MC17-073644

Mr Derek McKinstry
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Dear Mr McKinstry

Prince Henry Community - telecommunications infrastructure competition and choice

Thank you for your letter of 28 February 2017 to Senator the Hon Mitch Fifield, Minister for Communications and the Arts on behalf of the Prince Henry Community Association concerning telecommunications services at Little Bay, NSW. The Minister has asked that I respond on his behalf. I apologise for the delay in responding.

In relation to your query about telecommunications competition in the Prince Henry Community, the area concerned is classified as 'adequately served', with Pivit as the wholesale network provider. The Adequately Served Policy was introduced to recognise pre-existing investments in fibre-to-the-premises networks in residential estates when the National Broadband Network (NBN) was established. These networks had to meet a number of published criteria set out in the policy. One criterion was that the relevant network must be capable of providing a layer-2 wholesale service on an open-access and non-discriminatory basis. Another criterion was that the network must provide wholesale service prices equivalent to the prices of comparable services provided by NBN Co Limited (nbn). Pivit was granted 'adequately served' status after it demonstrated its networks met these criteria. These criteria are designed to support retail competition.

As a result of obtaining 'adequately served' status, Pivit has a legal obligation under its carrier licence conditions to service all premises within its service footprint. The licence conditions can be found at www.legislation.gov.au/Details/F2013L01809. In recognition of this status, the Adequately Served Policy provides some protection against overbuilding by nbn unless there are countervailing efficiency benefits from overbuilding.

An important policy objective for the Government is to maximise retail level competition and choice for consumers of telecommunications services, noting that in suburban areas the economics of network provision are such that there may be only one fixed line telecommunications network. The open access criteria noted above that Pivit needed to meet are designed to foster retail level competition. However, even if a network is required to be open access, retail service providers need to decide that they want to operate on the

network. In making this decision, retail providers will consider a range of factors including the size of the addressable market. It is open to Pivit to undertake commercial initiatives to attract retail service providers onto its network.

In relation to overbuilding by nbn, the Department understands that some residents may like the NBN to be rolled out in Prince Henry Community. However, overbuilding is also a complex and longer term issue. As noted above, the Adequately Served Policy does provide some protection for pre-existing networks with 'adequately served' status, in recognition of the investment made in them. Moreover, the Government needs to balance the extension of the NBN to areas that already have good broadband with meeting the needs of areas with poor or no broadband and ensuring public funds are spent appropriately. The Government's *Telecommunications Infrastructure in New Developments* policy also notes that where a network provides NBN-comparable services, there may be little commercial reason for nbn to overbuild.

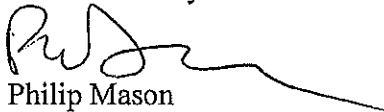
The Adequately Served Policy does not prevent carriers other than nbn from providing infrastructure in an 'adequately served' area. Australia has had an open and competitive telecommunications market since 1997. However, a carrier's decision to operate in an area will be influenced by a range of factors including the addressable market, given the existence of any other network, in this case Pivit's. I understand, however, that Telstra has recently deployed HFC cables in a number of multi-unit dwellings at Little Bay. This is Telstra's commercial decision.

In relation to nbn's ability to use such Telstra HFC infrastructure in future, the Adequately Served Policy predated the move by nbn to a multi-technology mix approach under which it would make use of Telstra infrastructure of this kind. As such, the Policy did not contemplate situations like this. The Government therefore needs to consider this matter further. This will require consideration of the implications for all stakeholders, including residents that can be serviced by the networks concerned, Pivit, Telstra and nbn.

In all instances, the Government is interested in the impact of the Adequately Served Policy on consumers. Should you have further concerns, they can be directed to the Department by emailing greenfields@communications.gov.au.

Thank you for bringing you concerns to the Minister's attention. I trust this information will be of assistance.

Yours sincerely



Philip Mason
Assistant Secretary
Market Structure Branch

6 April 2017