

27 March 2008

Dr Ross Patterson
Telecommunications Commissioner
Commerce Commission
Wellington

Regarding: Proposed study into Next Generation Network Issues

Dear Ross

Thank you for this opportunity to comment on the draft terms of reference and timeline in your “Proposal to launch study into Next Generation Network issues”.

We are supportive of the Commerce Commission’s decision to proactively consider the implications of Next Generation Networks (NGNs).

We have an historic policy commitment to developing a competitive market. The regulatory approach needs to change as technology develops, and the key aspect of this is ensuring open access to bottlenecks and driving EOI principles through the network.

The strategic view sought by this study is essential and we would like to see this translate into a thorough industry consultation and facilitation process leading to an open competitive NGN environment that develops for the benefit of end-users.

Note that InternetNZ has shared research with ISPANZ on this submission and therefore there may be duplication in the comments.

Keith Davidson

Executive Director
InternetNZ

COMMENTS

Section 2. Scope of study

* The proposed Scope of study identifies a number of issues that arise from the introduction of NGNs and identifies areas of study that may be included.

The Scope attempts to list relevant issues but this approach is limiting and could miss vital issues related to Telecom’s PSTN transition.

Recommendation: The Scope should include everything that is to do with Telecom’s NGN and not provide opportunity for components to be segregated off as Out of Scope.

* The view of the world as being in transition from a PSTN to “an NGN” may be construed by some as an incumbent “telco-centric” view. This may preclude a wider view of the industry and of a future that many see as involving connected networks that utilise horizontal layers, compared to the vertical integration of the PSTN past.

For most providers, having their own NGN network is not a transitional issue, but is the only network they have. These providers and their customers would not want their opportunity for innovative services to be constrained by regulation that encumbers them with legacy-related costs and thinking.

Recommendation: The Scope should also look at whether regulation would overreach and impact the availability of new and more vulnerable services.

* Even using the term NGN can be problematic at times. The document acknowledges that it can mean different things to different people. The term NGN can be used by incumbent telco firms to avoid regulatory impact and help them retain or re-monopolise the access network around their one NGN.

Recommendation: The section in the Scope: “Transition from a PSTN to an NGN environment...” should read “Transition from PSTN to NGN environments...” i.e. in the plural.

* It is with concern that we read that the Scope “may” include a look at technology trends, interconnection and new access products and services” (at the end of Section 2).

Recommendation: It is essential that these first three discussion points as outlined at the end of the Scope outline are a required part of the study.

* Interconnection is a defining area for NGN discussion and the transition from PSTN.

In an NGN world Voice over IP does not interconnect separately but interconnects as IP packets. To treat IP Voice and Data separately is a continuation of legacy concepts and could be used to game the situation.

Recommendation: The inclusion of discussion of interconnection or “peering” requirements needs to be spelled out and included in the first list, and with IP Voice and Data dealt with together.

* Mass migration off the PSTN into a competitive NGN environment will require issues around emergency services to be resolved.

Issues around caller location are key to emergency services and when these are addressed, this opens up options for new and innovative services based on converging networks.

Another issue is consumer awareness of new technologies that require power to operate, as compared for example to PSTN telephones which are line powered.

Recommendation: The issues of caller location and device power supply should be explicitly and specifically required in the Scope.

* Access seekers can be impacted by technology choices of incumbent telcos, where those technology choices may favour vertical integration models, for example GPON.

Recommendation: Include a look at situations where technology choices limit access seeker opportunities.

Section 3. Aims of Study

* The aim is expressed that there is no particular bias for or against regulation, and it covers off the case of longer term regulatory possibilities.

While having restrained objectives is understandable in terms of trying to keep the focus tight, it is likely to severely slow progress towards the development of an effective, competitive market for NGN provision.

For example, the extent of looking at regulatory options appears to be assessing triggers for regulation rather than what those regulatory options are. The paper notes as an outcome: "Give increased certainty to end users and stakeholders by providing guidance as to likely regulatory responses to market developments – for example, to identify likely triggers for regulatory forbearance or intervention".

Studying the options rather than assessing and perhaps proposing solutions related to New Zealand conditions would delay any necessary regulatory process by around a year. By contrast, Ofcom was already becoming more specific about remedies in its mid 2007 discussion paper on NG Access, and shortly is likely to become even more specific having considered submissions. Again New Zealand is dragging behind.

Recommendation: Include consideration of more immediate regulatory options and recommend any which appear appropriate. For example a bullet point could be added: "To highlight whether further change is required and identify any regulatory options that have arisen from the analysis."

Section 4. Interaction with key stakeholders and other processes

* The Commission is commended in desiring to work alongside existing processes and attempting to avoid duplication of work in the industry.

However, it should not assume that these processes will proceed, nor conclude successfully in a timely fashion, nor include the breadth of stakeholders that the Commission would regard as appropriate to its own work.

Recommendation: The Commission's study of NGN issues is too crucial to be compromised by waiting on outside activity undertaken with different or narrower aims in mind. The Commission should not just "expect synergies" with these processes, but should proactively and dynamically monitor them and not hold back from undertaking its own parallel activity where necessary.

Recommendation: Telecom's obligations under the operational separation process be monitored with the aim that progress on NGN issues does not depend on Telecom.

Recommendation: An update on the state of play of industry consultations on IP peering should be provided for, as these are happening simultaneously to the NGN study. We are hopeful of progress, but there needs to be a backstop option of involvement from the Commerce Commission.

Recommendation: NGN consultation needs to continue independently and be industry-wide. The proposed Telecom Wholesale NGN consultation programme cannot meet these requirements and should not be tied to the bigger process such as it affects progress.

* In the diagram showing how the three processes relate to each other it is not clear what the arrows between them represent.

Recommendation: Rethink or remove this diagram. If the arrows represent communication then they should also travel between the Commission and Telecom. The diagram should also be reworked to make clear that the Commission's study is broader than the other processes and can encompass their outputs to the degree of usefulness they provide in a timely fashion.

Section 4. Proposed phases

* Telecom remains in a position to move on its PSTN migration largely out of sight of access seekers.

Recommendation: Telecom should not be allowed to make changes that impact access seekers faster than the regulatory processes set up to deal with it.