Commerce Commission LLU & PDN Review

Opening New Zealand to Broadband Competition

TelstraClear Closing
14 November 2003

Telecom's Arguments

- We won't do NGN – NZ will miss out on "wall to wall" NGN
- Unbundling is too hard with NGN
- Wireless provides effective alternative competition (including triple play/NGN)
- NZ is getting to unbundling just when other countries have recognised the errors of their unbundling ways
- "we'll make the problem go away by providing data tails and IP interconnection"

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The NGN Bogeyman

- The EU NGN report Telecom quotes as authority for the "don't touch my NGN" regulatory approach concludes that:
  - NGNs are inevitable
  - Driven largely by cost savings
  - Long transition period (TCNZ's Rhoda Holmes says up to 10 years)
  - Layered technology inherent in NGNs facilitates third party access
  - Continue to regulate the old bottlenecks and beware the new bottlenecks

The NGN Bogeyman

- Telecom, in effect, is saying it must capture 100% of the revenues from most of the customers in NZ to fund NGN
- AAPT: if incumbents have a mistaken belief that they will not invest because of access regulation, entrants will fill the gap

Wireless: You Can't Defy the Law of Physics

- The central challenge of the NGN future is "getting enough capacity in place and of high enough quality" (Telecom)
- the essential limitation of wireless is as a shared spectrum
- Lower cost IP over wireless can deliver narrowband voice and Internet grade data services
- But a few users in a cell site simultaneously using bandwidth hungry services soon consume limited spectrum
- Wireless will not support an NGN competitive with Telecom's – Telecom even regards capacity of its own fixed copper network as inadequate capacity and hence extending fibre to cabinets – how can shared medium match individual customer pipes with 10Mbps or more?

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Unbundling as One of Options to Address Access Gap

- But also comes back to fundamental question of “what infrastructure”?
- Building infrastructure is not an end in itself, but facilities-based competition is seen to promote “better” competition because lower cost base and increased innovation
- But with NGN, innovation and lower costs are driven by layers above the access network
- Telecom’s competitors spend limited capital resources on “dumb pipes” while Telecom invests in network intelligence sitting on its sunk cost “dumb pipes”

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Unbundling as One of Options to Address Access Gap

- As Dr Milner said “I would not want to rely completely on wireless, just as I would not want to rely completely on LLU”
- Australian and overseas evidence is that:
  - LLU/bitstream usage seems to be inverse to presence of alternative networks
  - Alternative networks are still being deployed
  - “all boats rise with the broadband tide”

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Has the Unbundling Tide Gone Out?

- Despite vociferous attack by ILECs, even most conservative FCC members endorsed past success and future importance of copper loop unbundling
- Korea – “world’s most successful broadband country” – has required unbundling because of competition and ubiquity concerns
- Hong Kong: one of world’s highest penetration of alternative networks, 2nd highest broadband penetration and highest take-up of LLU – Ofta considering win back but only because LLU has “done its job”

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Commerce Commission Draft Report within FCC Envelope

	Majority	Powell	Martin	Copps	Adelstein	Abernathy	NZ CC
Copper loops (legacy networks)	✓	✓	✓	✓	✓	✓	✓
Fibre loops (FTTH loops)	x	x	x		x	x	x
Hybrid loops	✓	✓	✓	✓	✓	✓	?
Line sharing	x	✓	x	x*	x*	✓	x
Switching residential	✓	x	✓	✓	✓	x	n/a
Switching business	x	x	x	x	x	x	n/a

NZ without Unbundling: Impact on Competition

- With new IP/NGN services, Telecom can leverage low cost services over low cost infrastructure:
  - E.g. Telecom says VoDSL will allow Telecom to provide 8 telephone lines over single copper connection
- Entrants face an access Catch 22:
  - "traditional" resale data services provide a nailed-up circuit which allow entrant to control service to customer – but at a high cost;
  - But shifting to IP resale service (Jetstream) lose ability to control QoS and provide own functionality (because layer 3)

Resale is Second Best Option

- Resale begets more regulation and less innovation – NZ has to regulate more services because monopoly inputs bundled into end to end retail services

- Regulation of the basic upstream inputs - as in Australia:
  - Reduces entrant reliance on downstream end to end services
  - Encourages innovation (e.g. entrants first to introduce SyDSL)
  - Encourages a “transformational” shift in incumbent by decoupling wholesale incentives from demands of retail business to protect monopoly margin

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Telecom's "Sweetener"

- Deflecting from the Commission's review
  - Timing – borne of regulatory incentive
  - "promise" is not credible
    - L2DSL "good faith negotiations"
    - Residential Resale
    - Commission's 1999 s36 investigation into data tails
- Denying access in favour of "interconnection"
  - Interconnection will be required – agreed
  - Interconnection stifles innovation – use is limited to incumbent's applications (eg. TCL Private Voice)
  - Telecom appropriates majority of market value

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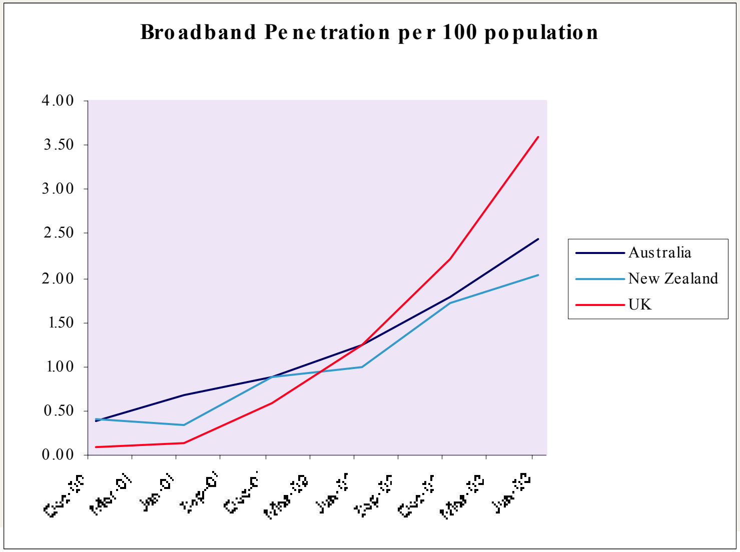
NZ without Unbundling

- NZ has fallen to the back of the "second pack" in broadband – gap widens if exclude 128 kbps Jetstream
- Other laggards (UK and Australia) are now pulling ahead – since LLU and bitstream have got traction



NZ without Unbundling

- Telecom (and Howell) say “don’t worry about low residential penetration – NZers rather play outside”
- But Telecom then says NZers need NGN
- overseas evidence that once consumers “know broadband they love broadband”

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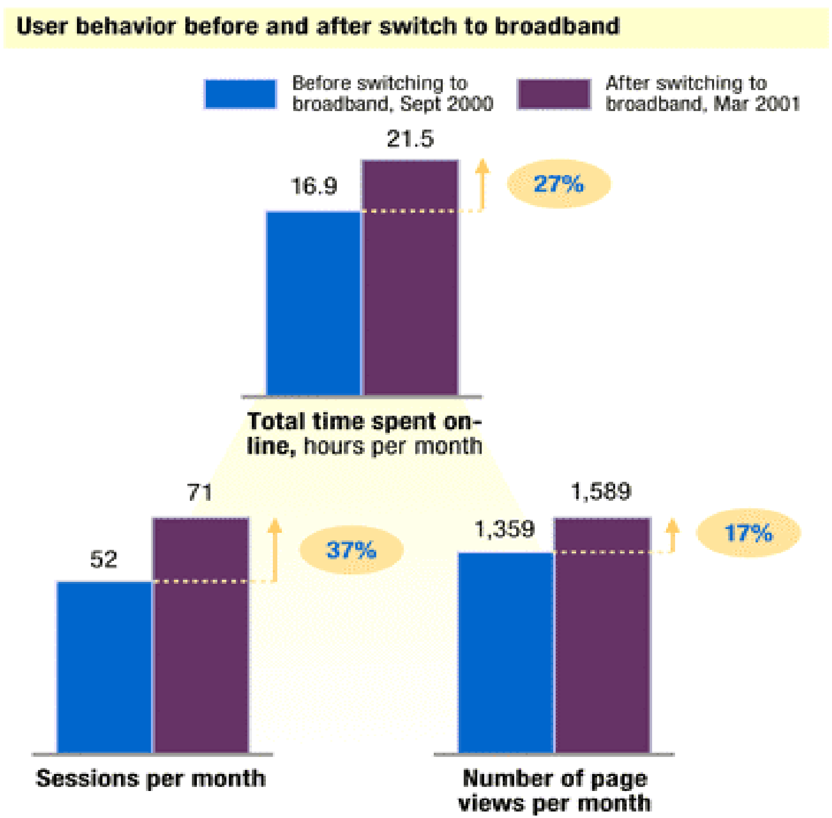
Broadband means more time on line



Source: Jupiter Media Metrix; McKinsey analysis

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A Customer Focused Industry Vision

- TelstraClear welcomes Telecom's commitment to NGN, but as the ITU has said:
  - "competition is key to driving prices down and increasing broadband options available to consumers"

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A Customer Focused Industry Vision