

**Joint Committee on the National Broadband Network**  
**Answers to Questions on Notice**  
**Public Hearing 5 July 2011**  
**Broadband, Communications and the Digital Economy Portfolio**  
**NBN Co**

**Question No: 1**

**Hansard Ref: JC pages 6, 7, 8, 9**

**Topic: Construction tender**

**Mr Hartsuyker asked:**

**Mr Hartsuyker:** If we go back to the construction contract and tender that was curtailed on 1 April, could you just give me a bit of a cook's tour of the way that tender was structure as far as what NBN Co was seeking from tenders – fixed time, fixed prices etc? Then could you move to Silcar and the variation between what you originally tendered for and what we now have as the contract offering...Was the contract for a fixed or guaranteed price for, let us say, the 10 units or however many units you have broken it up to? Were you contracting for a fixed price?... It was on a schedule of rates?... On the schedule of rates, what were the rates? Were they per house connected or per kilometre of wire?... So we have a schedule of rates. What were the variances? Were there variances for the ground conditions for instance?... Was a fixed time involved for the completion of certain elements of the contract?... What about if the project went longer than expected? What were the arrangements there with a contractor?...On labour rates, was there a provision for escalation in labour costs in the original contact?... Let us say that labour escalated over a particular rate. Where did that risk lie?... What about prolongation because of wet weather? Who would take the risk on wet weather on that project under the original tender? ...I want to get a handle on the division of risk between the client and the contractor and, within the original contract sum, the degree of assurance that the costs as tendered were going to be the actual costs incurred by NBN Co. Then, moving onto the new contract, what were the differences between the new contract and the old contract?... **Chair:** Do you want a risk comparison? **Mr Hartsuyker:** Yes, exactly. And a cost comparison.

**Chair:** Are you happy if that question on notice is: 'How is risk calculated and how is it managed at the same time? **Mr Hartsuyker:** But I would like it in fairly specific terms, not broad-brush general terms...**Senator Fisher:** Including the factors that are taken into consideration. **Mr Hartsuyker:** And itemised.

**Answer:**

NBN Co has adopted a standard Telco industry model with a schedule of rates for standard work items. Key details of the pricing and risk allocation between NBN Co and Silcar are confidential under the contract terms.

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**Question No: 2**

**Hansard Ref: JC pages 9, 10**

**Topic: Optus deal**

**Mr Hartsuyker asked:**

On the Optus deal, you said \$800 million post tax PV. Mr Quigley: NPV, yes. Mr Hartsuyker: What is the nominal pre-tax cash cost?

**Answer:**

NBN Co has completed deals with Telstra and Optus releasing as much information on the financial terms under our contractual confidentiality as agreed between all parties.

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**Question No: 3**

**Hansard Ref: JC pages 5, 11**

**Topic: School of the Air**

**Mr Oakeshott asked:**

Have you had any contact with the School of the Air that you are aware of on this issue around what they see as a potential downgrading of their ability to deliver School of the Air services? ...On the School of the Air issue, I just went back to the office and got some correspondence. To clarify, Mr Quigley has kindly agreed to take it on notice and provide some information back to the committee in regard to the ability of the School of the Air to conduct distance education programs better than they have done in the past using, where possible, the NBN service.

**Answer:**

School of the Air services provide remote education services which most likely include Video Conferencing, bandwidth sharing and prioritisation, Multicast capability, higher service availability and improved Service Levels. It is provided using a dedicated hub that is configured to provide a business grade service for what is essentially a customised service. In keeping with extension of the Australian Broadband Guarantee (ABG) eligibility criteria, (supporting residential, small business and indigenous communities) schools, government departments etc are not eligible for an NBN Co Interim Satellite Service (ISS).

The ISS is a consumer service targeted to maximising the quality and take up to remote users for internet type services given the limited capacity available. Business grade services are planned for the long term satellite services in 2015 where NBN Co plan to support such applications and functionality. Eligibility policies will need to be developed to ensure that competition issues for commercially offered services are taken into account.

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**Question No: 4**

**Hansard Ref: JC pages 13, 14**

**Topic: Wireless only homes**

**Mr Fletcher asked:**

We also had a discussion at the hearing on 16 May about the basis for the view in the corporate plan that wireless-only households will go from 13 per cent to effectively a ceiling of 16.3 per cent. I think that is what the corporate plan says, and the assumption is that it will effectively get to that number by 2025 and broadly flatten out. There was a bit of back and forth about whether we were talking about the same definition of wireless-only in two different parts of the corporate plan. I think that issue has been resolved. Tell me if you disagree.

...If the assumption turns out to be wrong – in other words, if wireless only homes continue to grow – how much risk does that pose to the corporate plan?... Can you share that analysis with the committee?

**Answer:**

The growth assumption of wireless-only homes has been included, together with other assumptions, under various sensitivity scenarios as part of the analysis at page 25 of the Corporate Plan.

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**Question No: 5**

**Hansard Ref: JC page 16**

**Topic: Services in operation**

**Mr Fletcher asked:**

How many services are there in operation right now?...Could you decompose that number by speed bracket—in other words, could you break it down into those who are taking a 100 megabit per second service, if any, and those who are taking a 20 megabit service and those who are taking a 12 megabit per second service. Or whatever the brackets are that the retailers are offering.

**Answer:**

As at mid-July, there were 798 active services in operation across Tasmania and mainland First Release Sites. These services were distributed across the different speed tiers as follows – 286 (100/40 Mbps), 107 (50/20 Mbps) and 405 (25/5 Mbps).

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**Question No: 6**

**Hansard Ref: JC page 17**

**Topic: Greenfields**

**Senator Ludlam asked:**

What can you provide the committee with by way of documentation of the process that you went through? **Mr Quigley:** I would have to have a look at what I could provide. A lot of the information that was sent to us is obviously a response to a tender. I would need to check what we can and cannot provide. **Senator Ludlam:** I have been pursuing this kind of stuff for the original RFT for a couple of years, so I understand you will not be able to provide me with the bids. I am more interested in the thought processes that led you to deviate from the path where there was some expectation by the government that there would be certainly be more than one provider. Can you provide any evidence as to NBN Co's thinking as to why one provider was the best?

**Answer:**

Greenfields was run through a Request for Proposal process to more than 25 invitees. Of these, 11 responded and all responses were evaluated. Following analysis and negotiation, NBN Co decided that one party, Fujitsu, would provide all the requirements nationally, over the next 12 months. Before the expiry of this initial term, NBN Co will review the requirements, including the number of contractors.

One of the primary concerns in the evaluation process was NBN Co's ability to service the anticipated demand for fibre in new developments. The fibre to the premise market prior to the government's policy was very small, less than 8% of new developments were served by fibre. From 1 January 2011, 100% of new developments that met the criteria will receive fibre.

NBN Co carefully evaluated the two options to meet the Government's policy requirements – going with multiple providers or one provider that had national scale. Fujitsu (with Servicestream), clearly demonstrated national capacity to scale to the volume anticipated within the time required and the fact that there was guaranteed uniformity and network architecture conformance.

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**Question No: 7**

**Hansard Ref: JC pages 17, 18**

**Topic: HFC**

**Mr Fletcher asked:**

What would be the cost comparison between the approach that you have taken in the existing HFC footprint and an alternative scenario in which you do not build your own new network but use the HFC network to deliver services?... The question I am putting is: if you were to take an alternative strategy of using the HFC network to deliver services, what would be the cap-ex savings involved? **Mr Quigley:** Does it have to be open access and wholesale? **Mr Fletcher:** Yes, and the HFC networks are subject to the open access requirements of the old Trade Practices Act, now the Competition and Consumer Act... **Mr Quigley:** So you are asking: in terms of technology, is that capable of satisfying the requirements that we had? I will certainly look at that.

**Answer:**

NBN Co is implementing the current government objective of providing all Australians with fast and fairly priced broadband. This includes providing 93% of Australians with fibre to the home technology, with the remaining 7% to be served by a mix of next generation fixed wireless and satellite technology.

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**Question No: 8**

**Hansard Ref: JC page 18**

**Topic: Wireless vendor**

**Mr Fletcher asked:**

Regarding the process to appoint the party which is to build NBN Co's wireless network, which I understand is Ericsson, can you inform the committee whether all major international wireless network vendors of wireless networks were given the opportunity to participate in that tender process? **Mr Quigley:** After a preliminary evaluation, we went to, I believe, a tender process with what we regarded as the two major vendors of wireless networks that had the capability in Australia to build this type of network. **Mr Fletcher:** Which two were they?

**Answer:**

NBN Co cannot comment on the unsuccessful tendering party, as this is covered by a confidentiality obligation signed by NBN Co at the outset.



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**Question No: 10**

**Hansard Ref: JC page 19**

**Topic: NBN Co Procurement Strategy**

**Mr Turnbull asked:**

Your own company's procurement strategy was approved by your board in December 2009? Is that right?... The strategy has not been published, has it?... My information is that it has not been published on your website. On that basis, would you agree that the failure to publish that procurement strategy runs counter to the principle of transparency that the finance department has outlined and which I just read back to you? **Mr Quigley:** No, I would not necessarily agree with that. First of all, I will have to check the basis on which we make decisions about what we put on our website and what we do not.

**Answer:**

Specific information regarding NBN Co's procurement strategy is set out in the Corporate Plan (refer page 57). The Corporate Plan is available on NBN Co's website. In addition, publicly advised requests for capability or proposals are regularly placed on the NBN Co website.

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**Question No: 11**

**Hansard Ref: JC pages 22, 23**

**Topic: Townsville damage**

**Senator Fisher asked:**

How much infrastructure was laid and to what extent was it damaged? Maybe it was totally wiped out. I am asking: to what extent was it damaged? ...**Mr Quigley:** I can tell you how many segments were damaged, yes. ...**Senator Fisher:** Can you quantify the infrastructure which survived Cyclone Yasi in Townsville?

**Answer:**

NBN installed 33.7km of underground fibre, 30km of aerial fibre, 14 street cabinets (FDHs), 1200 premises lead-in cables and 730 multi-ports; a total of 106 cable segments were installed. Nearly all of this infrastructure survived cyclone Yasi with the exception of 3 segments of fibre totalling 1.8km and 12 other fibre segments that required remediation (e.g. re-tensioning, replacement of fixing hardware, etc).

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**Question No: 12**

**Hansard Ref: JC page 23**

**Topic: NBN Co Staffing**

**Senator Fisher asked:**

Are you familiar with the head agreements reportedly reached with the ETU and/or the CEPU and companies to employ workers to roll out the NBN?

**Answer:**

NBN Co has not been involved in any of the agreements referred to between the unions and the companies that might be engaged to rollout the network.

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**Question No: 13**

**Hansard Ref: JC pages 23, 24**

**Topic: Contract penalties/confidentiality**

**Senator Macdonald asked:**

The two of your senior executives resigned recently. What were their names? Flannigan was one. Mr Certerio? ... Did these people resign? Were they on a contract?...I am interested in what their contract said about them resigning before their contract expired: what, if any, payments they were given when they left or what penalties they paid for leaving early. Could you give me all that information on notice?... Did they get paid a lump sum at the time of the termination?...I would also be interested in whether there was any confidentiality imposed on them when they left.

**Answer:**

Contractual terms including separation details are personal and confidential information between the individual and NBN Co. Mr Flanagan and Mr Sotirio were paid their contractual entitlements.

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**Question No: 14**

**Hansard Ref: JC page 25**

**Topic: Telstra/Optus deal comparison – commercial in confidence**

**Senator Macdonald asked:**

**Senator Macdonald:** But in doing the deal with Telstra you must have had an anticipation that X would come over, and I want to know what your anticipated gain was from whatever you paid them—okay?

**Mr Quigley:** I understand. We may or may not be able to provide that information, depending on what can be calculated from it. We are in a process where I have to be extremely sensitive. Telstra is going through a shareholder vote. It is a public company. I just have to be careful with that.

**Senator Macdonald:** Just finally, in responding to Mr Fletcher you indicated you could not answer because of commercial-in-confidence. I think there is a ruling from the Senate... that it is not sufficient for witnesses to claim commercial-in-confidence... You actually have to establish why it is commercial-in-confidence... the calculations for payment of the money are completed, the tenders are completed, or the buying arrangements. I would like to know now why you are claiming that it is commercial in confidence. As I say, the Senate just does not accept you blandly saying that it is commercial in confidence. It may well be commercial in confidence, but I would like you to establish ... why you are claiming that those contracts, having being completed, are commercial in confidence.

**Answer:**

The question asked by Mr Fletcher (what is the price per customer payable to Optus and the price per customer payable to Telstra) and the question asked by Senator Macdonald (what is the number of subscriber addresses expected to be disconnected by Telstra (what Senator Macdonald refers to as "X" and what was NBN Co's anticipated financial gain from the per subscriber amount payable to Telstra) both involve the disclosure of detailed and quite granular financial information that is currently confidential. NBN Co is required to maintain the confidentiality of the financial information in the Telstra and Optus final agreements (Telstra Definitive Agreements and Optus Definitive Agreements, respectively). It is NBN Co's commercial judgement that it is in the best interests of NBN Co (and therefore of the Commonwealth) that NBN Co secure successful completion of both agreements, with confidential financial information being progressively released to regulators (in particular the ACCC) and the shareholders of Telstra.

In the case of Mr Fletcher's question, his question incorrectly assumes an “apples for apples” comparison between two different transactions and transaction structures.

Importantly, those distinct transactions involve parties who currently compete with each other, and who, it is anticipated, will be future major retail service provider competitors on the NBN Co fibre.

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It is the intention of NBN Co to provide as much detail as it can in relation to the financial terms of the Telstra and Optus Definitive Agreements. However, NBN Co must do this in a way that is consistent with the contractual obligations of confidentiality that it currently owes to both parties. This is to ensure that the legitimate commercial interests of competitors are protected, and to ensure that the release of financial information does not damage future competition in the market.

Telstra has issued a detailed “high level” summary as part of its ASX release on 23 June 2011 and NBN Co issued a press release on that day in relation to both the Telstra Definitive Agreements and the Optus Definitive Agreement. NBN Co's commercial preference is to provide further financial information to a level that is compatible with those releases, and any future releases by Telstra or by Optus, and our contractual confidentiality obligations. We will update this information, as and when we can.