
2013

IPART Review of Communications towers on
Crown Land



AUSTRALIA'S REGIONAL BROADBAND

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Response to discussion Paper

Microsoft

2/12/2013

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Re/To:**Review of communications towers on Crown Land
Independent Pricing and Regulatory Tribunal**

Countrytell Response to IPART Review of rental arrangements for communication towers on Crown land Issues Paper December 2012. (On line submission 12 Feb 2013).

Background

Countrytell is a carrier established as a social enterprise business, working with communities, (especially smaller regional towns) to expand commercial centres and grow visitor numbers by accelerating the economic and social development opportunities that high capacity broadband provides.

Evolving from a not-for-profit approach, being a social enterprise ensures Countrytell has the commercial discipline critical to sustain broadband services in small and regional communities.

As a social enterprise, Countrytell is determined to reinvest earnings in:

- expanding the network across other regional communities,
- working with communities to design networks and services to meet their individual needs and;
- developing services and applications that will support economic and social development in regional Australia.

Countrytell is delivering the NSW Community Broadband Development Program (CBDP) which focuses on regional and small communities either not scheduled to be delivered the National Broadband Network (NBN), or not likely to see delivery in the short term. The focus is to accelerate and deliver the economic and social development opportunity that high capacity broadband provides, enhancing communities capacity to 'go digital' with NBN-quality broadband.

The Countrytell social enterprise business model is unique and tailored to economic and social development outcomes. The traditional Carrier's profit only model is based on population density which fails small communities by increased costs, limited infrastructure investment and consequent nil or under service.

A key to Countrytell's ability to deliver high capacity, high speed broadband and tailored services is by managing costs. As a budget funded entity, the successful deployment of the NSW CBDP capital and, recurrent costs incorporate leveraging of publicly owned infrastructure including sites, at all three levels. Access to crown land sites are strategically important, particularly in regional areas.

Countrytell appreciates the opportunity to respond to this discussion paper. Please direct follow up inquiries to the undersigned.

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1. Sec 1.6 List of issues for stakeholder comment

Developments since the 2005 Review

1 What has driven the increase in the number of sites, leases or licences since 2005? Will the demand for sites, leases or licences continue to increase over the next 5 years?

Countrytell considers that increased demand overall for improved telecommunications including broadband in regional areas is a given. As communities strive to access modern telecommunications several factors impact on how this is achieved and why demand for sites has increased. These factors include but are not limited to;

- Consolidation of ownership of commercial towers (Including on crown land sites) to a monopoly/duopoly situation, where lack of competition reduces the capacity of local players and small businesses to negotiate better terms;
- The inconsistent, expensive, lengthy, overly complex and costly processes of LMA's;
- Commercial owners of towers, although notionally 'required' to allow access on crown sites, make terms of access and process so expensive or difficult such that potential sharers no longer consider that path, and chose to build their own;
- Such high rentals required by commercial tower owners means that investment in new builds becomes feasible;
- Increased deployment of private networks including tower sites as larger businesses in regional areas 'give up' on the inadequacies and expense of traditional carriers;
- The long term roll out schedule of the NBN and lack of clarity on when and where communities will receive NBN services means that some communities and businesses choose to initiate their own communications networks, to avoid the lost opportunity cost of waiting for the NBN.

Future demand may stabilise with the completion of the NBN, however this outcome is in doubt given the lack of bi partisan support and the intercession of an election. That NBN is a wholesale network is also overlooked – for communities to reap the benefits of the NBN will rely on local resellers who are nimble and sufficiently innovative to deliver local needs. In regional areas, unless the incumbents change their approach (and pricing) local providers will need to access backhaul and NBN POI's, and independent transition links via independent tower sites will be important in providing affordable capacity to do this.

2. IPART's proposed principles for the review

Do you agree with IPART's proposed principles for this review? Are there other factors IPART should consider?

Whilst in broad agreement with the principles of the review (if one accepts that this is not an exercise to increase revenue) there are other factors that should be considered:

- Market return should also assess non traditional qualitative returns to the Crown, such as community benefit, economic and social development - not solely cost recovery or economic returns.
- Community benefit in the context of social enterprise and not for profit outcomes.
- NSW Government policy programs such as the Country Industry Preference scheme highlights and acknowledges the appropriateness of investment in building capacity in regional NSW and IPART should consider this in price setting mechanisms.
- The NSW CBDP which Countrytell is delivering, confirms the government emphasis on growing the regions and is a precedent for non traditional consideration of pricing mechanisms.
- The NSW Government's *Decade of Decentralisation (2013)*¹ policy is a key election commitment being implemented to stimulate regional development, manage the State's predicted population growth and deliver greater opportunities to rural and regional communities.

¹ <http://www.business.nsw.gov.au/doing-business-in-nsw/have-your-say-on-the-nsw-governments-decentralisation-efforts>

- Under the policy, the Government is committed to creating new jobs in regional centres by initiating long term projects in regional centres rather than in metropolitan Sydney and by relocating public sector functions from the metropolitan area.
- Top quality broadband and managed IT services such as being delivered by Countrytell and other regionally based providers is an economic enabler, and the IPART principles when considering market return, should encompass non tangible, non fiscal benefits such as enunciated by Countrytell and government policies, i.e. community benefit and a desire for decentralisation and accelerated regional growth.

3. Market rentals for strategic sites

Does the current definition of a strategic site adequately identify sites that have strategic value? What are the characteristics of a strategic site that should be included in the definition? Please provide examples of sites that have strategic value but that do not meet the current definition of a strategic site.

A strategic site being defined by the extant number of users may not truly reflect latent demand for access to a particular site. As noted previously, if Carrier SME's do not have the capacity to negotiate with the monopoly/duopoly tower owners for access at affordable rates, they do not bother, having had the experience of artificial lock out due to high prices and difficult access regimes.

An example of a strategic site outside the characteristics cited is one that may be the only site available in an area, such as an isolated transition site, or on a site that has restrictions on build density. In these cases tower owners invoke higher rentals such that only larger players have the capacity to rent and use. Transition sites for microwave backhaul and similar are examples.

In other locations strategic sites in higher populated communities may have lost their strategic value as technology has improved. An example of this is a site in Albury which had eight separate users 3 years ago, so as the specific terrain issues within the city could be overcome, but has only 1 user now, as improved radio technology has removed the need for concentrated in fill or strict line of sight coverage.

4 What are the costs of negotiating rental agreements? Do the benefits of rental rates agreed through a negotiation process outweigh the costs?

As cited in the discussion it appears IPART is under the impression that site rentals can be negotiated by price. This is not the experience of the SME regional carrier. Intense negotiation is required to simply obtain access. In the case of the Crown this varies depending on the agency and the individual officer responsible for facilitating the lease/licence.

Negotiation occurs over the class of the applicant but the price is fixed. The process is lengthy. Whilst the Department of Lands had a (relatively) more streamlined and efficient approach, it is not clear what the impact of recent changes to departmental structure and rationalisation will be. Overall, negotiation with government agencies is inordinately lengthy, time consuming and cumbersome, even when deploying a government backed project.

Similarly commercial infrastructure owners have tariffs for access and negotiation is around access rather than price, which is more often than not fixed. As ownership of towers become more concentrated, rental price has increased, such that 'build your own' becomes more feasible. It is also a mechanism that can have the effect of stifling competition where access is refused or priced out.

5 Should the definition of strategic sites be revisited to reduce the number of sites that would be subject to negotiation?

Yes.

If so, should an additional category be introduced in the fee schedule to capture the majority of strategic sites?

Yes.

6 What changes, if any, would you suggest to the factors to consider when negotiating strategic sites as recommended by IPART in 2005?

1. Enable an assumption of right to access with real negotiation for pricing to reflect non traditional market factors such as:
 - a. Community benefit (as discussed in response to Q2)
 - b. Reduce duplication of effort (as pricing forces potential tenants to build their own)
 - c. Reduce environmental impact (by reducing duplicate builds, duplicate power install etc)
 - d. Recognition of not for profit and social enterprise

4. Market rentals for standard sites – location categories

7 What is the current market evidence on rentals by location? Does the market evidence still indicate that in general, higher rentals are charged for sites closer to metropolitan areas or population centres than regional and other areas?

Market evidence still indicates pricing by location, although this has expanded to sites that are 'one-off' or isolated, with monopolisation of a site by an infrastructure provider driving higher rental prices.

Yes, higher rentals continue to apply for proximity to higher populations other than for strategic and/or isolated sites required for transition links, where infrastructure owners charge higher pricing based on there being no ready alternative.

8 What are the implementation issues with applying the definition of high, medium and low location categories as per the 2005 Review? What are implementation issues specifically associated with the definition of medium locations applied by Parks and Wildlife and Catchments and Lands?

Local councils are on the brink of reform which will see amalgamation and unlikely to be in a position to offer improved consistency in defining population for the purpose of location categories (if the arguably outmoded population based policy/model is continued).

The policy ignores innovative providers with new business models for communications which are not reliant on population (such as Countrytell). Non population based models of communications delivery will be critical to regional economic and social development and delivering benefits from the NBN.

There is a lack of consistency between government agencies in determining location category populations. The envelope is often stretched to tip locales into higher price brackets.

9 Are there alternative definitions for location categories that are better supported by market evidence or are simpler to administer? What would market evidence support as thresholds for high, medium and low location categories?

The majority of the market is still wedded to population based models on which the premise of location categories are based. Consideration of a community's under-served telecommunications provider status (i.e. the number of broadband/communications competitors available other than Telstra) should infer a discount to providers willing to rectify what 'normal' market forces cannot.

Type of service proposed for delivery by SME providers could also be examined such as rental for equipment intended to provide a direct service to customers (on which the population model is based) or transitional link

equipment, enabling backhaul for smaller underserved communities to be more cost effectively connected and serviced by SME providers with innovative and tailored services designed for regional communities.

5. Market rentals for standard sites – user categories or occupancies

10 Are there implementation issues with the current categories of users or occupancies in general?

Yes. There is an inconsistency between agencies as to what or how categories should be applied. The NSW CBDP is a budget funded program and attested as such but despite attesting documentation from senior echelon representatives of government, agency site holder representatives continually seek further internal confirmation which inserts lengthy delays and unnecessary red tape. There is also inconsistency on how community benefit is weighted. Not all agencies are completely difficult to deal with, but several are, and unnecessarily so. Centralisation may be an answer – perhaps reference other NSW Telco Authority or Dept of Lands (or current equivalent) as a sole arbiter or authority may be worth considering.

11 Can the categories of users be reduced, for example, into the 3 broad categories of commercial enterprises (including government businesses), budget funded sector and community based organisations? What user categories are used by other lessors of communication tower sites?

If the categories are accurately defined and genuine negotiation on price is available, then a reduction of categories may be feasible. However, agencies will need to have a consistent approach.

12 On what basis would we calculate the amount of community service obligation for government businesses or concessions for budget funded and community based organisations?

In many regional areas an historical Carrier monopoly still exists and end users have very limited choice in telecommunications service providers.

To avoid this being continued now or in the future under the (politically in doubt) nationwide NBN roll out, it is essential that Community service obligations and concessions for budget funded and community based organisations are maintained, or the historical telecommunications monopoly will continue. Smaller communities will continue to be under served and unable to benefit from the true innovation offered by smaller and more nimble providers who can tailor and provide applications specific to community need.

13 What is the relevance of the development of new technologies for the user categories that were defined in the 2005 Review? What changes to user categories would better accommodate changing technologies?

As an example of the effect of emerging technological change, Countrytell is pursuing an innovative non population based model and a technology neutral approach, on a fully IP MPLS architecture. It is an example of the innovative service provision that emerging technologies can enable.

Countrytell will be enabling free Wi Fi services in small communities, as well as high QoS, high capacity broadband and managed services. Ease of access to crown sites with reasonable recurrent rental (on which the NSW CBDP has been modelled) will be critical to sustainability. Whilst the NBN may be able to be leveraged in some larger regional areas, in many it will not, and in all locations, access to independent backhaul will still be required to deliver NBN services.

As a social enterprise Countrytell will be reinvesting profit into the expansion of this new technology network and into the creation of applications and services tailored to regional business and community need. Changes acknowledging social enterprise and the economic and social development benefit that can be achieved with new technologies and new business models, should be considered.

14 Should the National Broadband Network be added as an additional user category or can it be accommodated within the current user categories? Why?

The NBN is established as a commercial operator and designed for privatisation. It should be treated as a commercial operator under the commercial category.

6. Market rentals for standard sites – infrastructure providers and co-users

15 What are implementation issues from applying the 2005 fee structure for primary users, infrastructure providers and co-users?

From an implementation perspective there is little evidence – and little incentive – for the flow through of discounts by primary users (i.e. tower owners) to infrastructure users or co-users. Negotiation is more often than not focussed on access, with rental prices being high end and fixed. This contributes to the upsurge in building new sites as ‘building your own’ makes more sense than continuing recurrent high rental – particularly given new technologies are reducing the prices of constructing towers.

16 What is the current market evidence on discounts being applied to infrastructure providers and co-users?

Countrytell has no evidence of discounts being applied other than the co-user principles which are inconsistently applied. The contrary applies.

17 What are the reasons for continuing to apply a discount to infrastructure providers and co-users? What would be the consequences of lowering or removing the discount for infrastructure providers and co-users from the current fee schedule?

Reasons for discounting continue to be for community benefit, leveraging taxpayer dollars by supporting budget funded services, and for encouraging economic and regional development by better enabling competitive Telco and broadband services in regional areas. Removal would see increased consolidation of the industry with the big players benefitting at the expense of smaller ones. This would be contrary to the current NSW government policy goals of regional development cited earlier in this response.

Other Issues

18 Should rental rates for Small Country Automatic Exchange (SCAX) sites come under the fee schedule for standard sites? If so, on what basis should we determine appropriate rental rates? Should SCAXs be considered as a separate category in the fee schedule?

As Telstra is a full commercial operator fully compensated for universal service obligations, it should be rated accordingly, within the commercial category.