



Federal Election 2019 Proposal to Government **5 Pillars of Success for Competition Reform**

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Commpete is an alliance for competition in digital communications. Formerly known as the Competitive Carriers Coalition, it was founded in 2001.

In April this year, at CommsDay, we relaunched under the new name, Commpete.

The relaunch attracted national press coverage and signalled a new, more deliberate push to challenge the market dominance of Telstra and Australia's other major telcos.

Commpete provides a unified voice of 'non-dominant providers'. Its clear focus is to enable REAL competition;

and we make it easy for government and industry to hear a consistent and credible voice for the challenger organisations we represent.

Some of us are newly emerging and NONE have the advantage of incumbency - nor have had the 'taxpayer', build our network.

Our membership covers carriers, niche regional players, wholesale enablers, software innovators, disruptors and MVNO's as well as data centre and cloud security providers.

We are often referred to as 'Challengers' and between us, we cater for a broad spectrum of the market from residential, small business, to wholesale, enterprise and government.

These sub-wholesalers contribute to our industry in many diverse ways - and we need to ensure that when regulatory and policy decisions are made – that they are NOT left behind...

Since our relaunch, Commpete has spent the last 6 months strengthening the alliance so we can make a substantial contribution to regulatory processes – which will also include the current MTAS, FAD, as well as the Vodafone/TPG merger.

Objectives

Today at CommsDay Melbourne – with the Federal Election imminent - I am very excited to release our election policy submission, calling for major change in the digital comms sector.

Our proposal won't be met with the applause of the incumbents but change rarely is. It will however directly benefit consumers by creating the conditions for sustainable, vibrant competition.

Our proposals will keep real competition at the centre of all thinking, where all design starts.

It will ensure that ALL technology platforms guarantee competition that will provide equal..., timely... and open access to consumers.

It will ensure we put in place safeguards, so - in Australia - we secure a flourishing wholesale market.

It will ensure that future market structures will not constrain - or lock out - the other 500 communications companies that are operating today outside the Big-3.

It will ensure that we are part of an Australian telecommunications industry that supports and enables newer companies to enter so – 'ALL of us' – BOTH large AND small – have the same opportunity to thrive AND

...above all... it will deliver more to; consumers, to businesses AND Australia's economy.

Real Competition

But before I go to the Commpete Policy Submission, it is worth remembering 'why' real competition matters....

Real competition matters because it was the basis of the privatisation and de-regulation project – not only in our industry, but in many others, including other utilities. Competition promised to deliver better price and service outcomes to consumers, productivity benefits to the nation and catalyse new products, services and innovation.

For our sector to live up to those important aspirations, we must be constantly striving to make competition the best it can be for the broad interests of the consumer, not the narrow interests of 3 big companies.

It is the challenger companies who are often 'first' to introduce many of the significant price and service innovations that consumers have enjoyed over the past 20 years.

Our members delivered to the market; ADSL2+, naked DSL & ULL unbundling, 3G mobile, voice over IP networks, sim only plans, virtual PBXs, and a raft of price innovations such as unlimited data plans, no lock in contracts, never pay line rental again, flat rate national call pricing and all-you-can-eat bundles... not to mention the competition that puts downward pressure on prices across the board.

Challengers introduce diversity and new ways of doing things – whether this be at a local, state or national level.

This is because we are not protecting incumbency, instead we offer disruption, innovation and a challenge to the status quo.

Communications Technology should be the modern economy's single biggest driver of productivity and growth. But Australia's ability to capitalise on the possibility presented by the sector is hamstrung by a regulatory framework that has stopped working for consumers.

The Government and regulators play a vital role in ensuring the 'right balance' is struck between both dominant AND non-dominant providers.

But today, the players outside the Big-3 only have 10-12% of market share across fixed and mobile.

We challengers can achieve big things – but we want to do more. And I'm sure you'll agree more of these contributions ARE a good thing.

To enable this to happen – major changes need to happen in the digital comms sector.

We need to ensure that all technology platforms guarantee competition that provides equal, timely and open access to consumers.

We need to promote a flourishing – NOT diminishing - wholesale market....

So, how can we do this?

Government and regulatory authorities can help facilitate future market structures that will unleash, rather than locking out, the other 500 communications companies that are operating today outside the Big-3.

Lay of the Land – problems haven't gone away (in fact, they are getting worse!)

A JP Morgan report from 2012 gives us a good benchmark that with an effective competition policy and a healthy advanced economy, challengers should occupy 30% of the market. Some call this the 'innovation wedge'.

The report was used as an aspirational measure at the time NBN was inception. But since the NBN launched, the combined market share of all providers below the Top 3 has at best stagnated, at worst gone backward, against all expectations.

Non-dominant communication businesses at 10-12% market share across both fixed and mobile? From a real competition perspective..., this is a clear failure of an important KPI for the NBN.

And as a nation - we just can't ignore this because it is holding us back.

We also can't ignore that even with all the hype and activity in restructuring, job cuts, fluctuation in share price – Telstra remains THE most profitable incumbent in the developed world;

We also should not lose sight of the fact, that pre-NBN and nearly at completion of the rollout, Telstra still retains the same 50% market share of retail fixed line broadband;

We can't ignore, that Optus Wholesale has significantly downsized, including cutting 50% of its salesforce,

that Telstra's mobile infrastructure has been vertically integrated and is owned by their retail arm;

and, we need remedies to force the TPG to commit to ensuring that its acquisition of Vodafone will not impede competition.

We can't ignore that as we enter an era of 5G technologies, with their promise of transformation, right before our eyes we see a thinning of the wholesale landscape by the major mobile network operators.

And we also can't ignore, that over the years the dismal 10-12% the challengers hold has stagnated.

We predict without government intervention to ensure competition the market share of challengers could slip further behind...

We just can't ignore the question "Is it really good enough to change nothing – and maintain status quo...?" when we know it is costing the households, small businesses and the national economy.

Specific actions are required to lift this performance. The principles to drive these actions should be committed to in the next term of parliament.

Policy makers should focus on lifting competitiveness in Australia's fixed and mobile markets to giving households and small businesses access to the fastest and most diverse range of products and services possible into the future and to make Australia a leading digital nation.

Commpete believes that creating the conditions for sustainable competitive markets is the most effective way to do this.

We embrace the chance for Government to maintain a commitment to principles of structural separation of wholesale markets.

We should not and cannot passively leave our fate in the hands of big telcos who will lock up their network in the interests of profits, not consumers.

Simply put, without real competition, incumbents will:

- Milk their assets at the expense of service experience,
- Manipulate the timing of the release of new technology and new features in order to maximise profit
- Drip feed new features and price changes, but only when there is competitive pressure
- Favour retail channels and keep the most profitable customers away from wholesale
- Dictate the terms of wholesale by limiting - what is sold, how it is sold and who it is sold to.

If the past two decades have taught us anything it's this - if we continue the status quo and take no action – it will be at the expense of BOTH the consumer and real competition.

Predictions for 2025

So let's take a moment to look at the future. If there are no reforms that lead to real competition what will the industry look like in 2025.

I predict that, without reforms that lead to real competition 2025 with the mainstream release of 5G;

- The market share of non-dominant providers will have slipped well below the current 10-12% level.
- NBN Co will have sold off its infrastructure assets back to Telstra InfraCo. Telstra will earn a profit – after the Government has made the taxpayer cover the cost of the build, as well as suffer through the 15-year journey.
- Nearly all consumers on 5G mobile will be retail-only customers of Telstra, Optus or TPG.
- Market choices will be characterised by a homogenous supply, with high ARPU compared to OECD pricing.
- Most of us here today will be working in some capacity for the big-3 – or large OTT software players or a major global vendor.
- Work will be centralised to Sydney, Mel or offshore. In the non-dominant providers, there will be a reduction in jobs across all head office core business functions such as Management, R&D, product development, engineering – it will be stripped back to just to sales and office administration.).
- The Government and regulators will be captured by the Big-3 and all industry consultations will be dominated by those providers.
- 95% of the funding of Industry bodies such as CommsAlliance and the TIO will come from the Big-3. All Board decisions will be made by the majority representatives from Telstra and Optus.
- The 500-odd niche retail and wholesale providers that are servicing smaller cities and regional centres across Australia, will slowly wind down their business, dissolve their infrastructure and sell off their customer base.
- And the Australian wholesale market will be characterised as sales distribution channels – that is; white-label resellers, dealerships, franchises and online sales agents of Telstra products.
- And consumers ultimately will suffer...

Federal Election 2019 – 5 Pillars of Success for Competition Reform

It doesn't need to be like this. We don't have to accept a low competition, low innovation future. We can do something about it.

That's why, today, I am launching Commpete's election policy submission – our roadmap for the legislators and regulators for real competition and better outcomes for consumers.

This will ensure history doesn't repeat itself.

Commpete's election policy rests on 5 pillars for success.

- 1) Create right of access to mobile networks for challengers
- 2) The NBN CEO holds KPI target of 30% Competition
- 3) A Write down of NBN
- 4) A Competitive Impact Statement
- 5) A Commitment to structural separation principles of NBN

I'll take you through the principles

Principle 1: Create a right of access to mobile networks for challengers

Policy makers and regulators must begin to drive this change by recognising a right of wholesale access to bottleneck or structurally uncompetitive mobile networks - just as there is as the right to access bottleneck fixed line networks.

Overseas, many jurisdictions have regulation specifically intended to encourage or even guarantee MVNOs' access to mobile networks.

Some of these interventions have been at the point of the allocation of spectrum, such as requirements that a proportion of capacity is offered to wholesale customer.

Others have required MVNOs to be given access to networks built with tax-payer subsidies.

Other have been achieved by forcing the MNOs to behave in ways that maximise the value and use of the public spectrum – such as mandating roaming. This in turn seems to have encouraged a more supportive environment for MVNOs.

And others have been imposed as a condition of mergers, especially mergers that reduced the number of MNOs from four to three.

In the UK, a merger from four to three was actually prevented, so concerned was the EU regulator about preserving competition.

In Australia, we have precisely none of these rules. Not one.

We need to address this immediately and create space in which MVNOs – or challenger businesses – can grow and innovate.

Principle 2: the NBN CEO has a KPI target of 30% of competition from non-dominant providers

As I've said, the JP Morgan report from 2012 gives us a good benchmark that with an effective competition policy and a healthy advanced economy, challengers should occupy 30% of the market.

The report was used as an aspirational measure at the time NBN was incepted. Non-dominant providers (outside the Big-3) hold 10-12% market share today.

NBN should re-set the goal of creating competition – but this must start at the top. To drive this cultural change, the Government, as the owner of the NBN, should require it to lift the market share of challengers to 30%. And this would become a KPI for the NBN CEO.

Principle 3: A write down of NBN

We must confront the hard reality that inefficient investment has been made in the early years of the rollout of the NBN and respond to the problem that consumers are paying for those decisions.

Credit agency S&P Global Ratings has warned that a write-down is inevitable. If NBN was a private enterprise, it would have recognised these sunk costs and written them off before now.

Writing off these costs would allow NBN to recalculate what it needs to recover from Retail Service Providers, and ultimately mean consumers stop paying for bad investments and poor political decisions.

The point of the public investment in creating the NBN was to drive greater usage of broadband by all Australians, to the benefit of individuals and the economy as a whole. It is urgent that prices are reset to achieve this goal and a write down by the Government is the first step toward this.

It is going to be a tough choice but, the sooner rather than later the Government must confront these options:

1. Take the hit and have a once-off charge to the budget,
2. Write down over the 4 year forward estimates..

Principle 4: Competition Impact Statement

Regulators and policy makers should be required to assess the impact on competition of their actions, by publishing a Competition Impact Statement when proposing new measures.

This would require them to consider different approaches to achieve a desired outcome, to compare the relative impact on competition of each alternative, and to justify their preferred approach.

In recent years, as consumer complaints have risen, policy makers and regulators have increasingly responded with regulation.

Often these regulations create costs that disproportionately impact challengers due to their smaller customer bases and resources.

Let's be clear, we unequivocally want more competition. But what we don't need is burdensome compliance dressed up as competition reform.

Higher levels of unnecessary compliance will have the opposite effect to competition reform. This is especially the case for smaller businesses and challengers who do not have massive resources to deal with red tape.

This can be counterproductive and with the anticipated increase in new compliance requirements, it is crucial that Competition Impact Statements are required to break the cycle caused from lack of competition in the first place.

This will create the conditions for more competitive markets and that's the most effective way to guarantee a better experience for consumers.

Principle 5: Commitment to maintain structural separation/wholesale only principles of NBN

The NBN was created to break an impasse that had hog-tied competition in fixed line communications since competition was first allowed in 1992. That is, the Telstra, the dominant retailer, owned the network every other telco needed to use to reach customers.

As the ACCC famously described the problem in 2001, Telstra had the incentive and ability to discriminate against competitors seeking to use its network to deliver services in competition to Telstra.

And it sure did ...

The NBN was designed to never have this incentive. It is not allowed to be a retailer. It is not allowed to be sold to a retailer. And just for good measure, it is not allowed to sell to any retailer on better terms than it sells to everyone else.

This last point is intended to prevent NBN being muscled by its biggest customers into giving them discounts to embed their advantage in the retail market.

These principles are just as important today as they were in 2012 - maybe more so. Before the last election, both major parties committed themselves to maintaining these principles. They need to do so again.

Conclusion

I hope my presentation has given you a sense of how far Commpete has come since we launched in April.

The fight for real competition in Australia's digital communications is intensifying and for good reason.

There is a lot at stake, far beyond the success of any company. We must not allow the mistakes of the past three decades to be repeated.

Australia should be at the front of the pack with other leading economies when it comes to competition, innovation and the best new products for consumers. We shouldn't be lagging towards the back and it didn't have to be this way.

Despite all the anti-competitive hurdles, it's Commpete members that have persevered and delivered the big leaps forward in communications in this country.

As the promise of 5G draws ever closer, let's clear the track of these hurdles and join the race towards the better mobile, better services and exciting new products that will revolutionise the way we live and the way we do business.

That can only happen with competition. Real competition.

Thank you.