

Next Generation Networks: another reason why Telecom must have robust operational separation

Overseas experience shows that Next Generation Networks (NGN) will become an even bigger issue than Local Loop Unbundling (LLU). The current legislative round provides a strong basis to deal with NGN regulatory issues now, rather than later when the problem is worse.

Fortunately this can readily be done by adopting the principles in the BT undertakings, which are the basis put forward by Telecom for their proposed solution. But the reality of what they propose is radically different from the model they say they are adopting. There's little in common between the BT model and the Telecom proposal apart from some excellent initiatives such as the Independent Advisory Board.

What's happening, and not happening, in New Zealand in relation to NGN is one of several reasons why there needs to be an operational separation model for Telecom that is at least as robust as the benchmark that Telecom uses for its proposal.

The NGN in the United Kingdom

The British regulator (Ofcom) had NGN squarely on the agenda as part of the BT Undertakings (the name of the document that created BT's operational separation plan). Ofcom made sure there were strong yet workable NGN commitments in place. In particular, BT gave the following undertakings:

- Commitments to provide NGN network access to wholesale customers on an "Equivalence of Inputs" (EoI) basis. Essentially it requires the BT network (operationally separated into a clear-cut division called Openreach) to provide products and services on exactly the same basis (with limited exceptions) to each of (a) BT Wholesale (which is also an operationally separate and clear-cut division), (b) BT Retail, and (c) direct to BT's wholesale customers (where they choose to buy direct from the network division (Openreach) instead of through BT Wholesale).
- BT must not make NGN design decisions which could shut off specific product options without adequate consultation and discussion, including with other providers. That has more recently morphed into an industry collaboration group called NGN United Kingdom. Established by Ofcom, this group is working through the issues along with an interconnection working party called NICC.

Ofcom will also address the need for additional regulatory controls. How much this will be needed, if at all, will depend in large measure on how implementation of these undertakings plays out. A key aim of the BT model overall is to avoid these types of regulatory controls. Indeed the regulator has removed such controls because of the BT Undertakings, to BT's benefit. In return, BT achieves what for it is a key outcome of the Undertakings: greater certainty to justify the high investment required for the NGN.

Telecom and the BT model

Telecom highlights the similarities of its model with BT's. Mark Ratcliffe, Telecom's manager responsible for introduction of operational separation, has said that the differences between the BT model and the Telecom proposal comprise "relatively minor characteristics". As to NGN, when Telecom note that BT is undertaking "to provide equal access to its Next Generation Network", they say their comparable undertaking will be "same as BT, and we will commit to a timeframe". At first sight, Telecom is committing to the same detailed undertakings (such as Equivalence of Inputs for NGN as applied by BT) but delving into the detail suggests otherwise.

Equivalence of Inputs

Despite Telecom highlighting the similarities, this is where their proposal most departs from the fundamentals of the BT model. So much so that they are really completely different models, but with some overlaps, such as the Independent Oversight Group.

The key differences are that what Telecom calls EoI is nothing like BT's EoI, and there is no operationally separated network (such as Openreach). The policy reasons underlying Openreach and EoI are lost in the Telecom model.

The policy background behind the EoI approach is based on what Ofcom call "enduring bottlenecks". These are parts of the network, they say, "where effective or sustainable competition was unlikely in the short to medium term". To encourage competition between competing infrastructures as deep as in the network as is likely to be effective and sustainable, Ofcom concluded that "BT needed to make such access available on the same terms as it made it available to itself."

These enduring bottlenecks are, says Ofcom, "mainly, but not exclusively, the access part of the network". That's why

the BT model focuses on the network operation (via Openreach) and why Equivalence of Inputs is all about what is provided by the network.

This focus at the network level is based on the recognition by the regulators that traditional regulatory controls have not worked, and have led to market failure. Those controls (which are like our existing legislation such as regulated access to certain products) focus at the downstream level. The upstream focus (at the network level) is aimed at overcoming the problems.

Far from fixing those problems, Telecom's solution simply stays in that same downstream space. Their so-called Equivalence of Inputs approach has two main features:

- It deals with the relationship between (a) wholesale, and (b) wholesale customers and Telecom retail channels. There is no operationally separate division that supplies wholesale, wholesale customers and the retail channel. In other words, it does not address the fundamental policy issue and is fundamentally different from the BT model. The policy drivers underlying the BT model are not met by the Telecom solution as there is no separated network division to handle the "enduring bottlenecks" problem.

- It's really just a variation on the same traditional regulatory theme. Telecom's choice of words to describe its "EoI" highlights this. It talks about receiving the same service (that's the sort of approach that has failed in the past). The BT EoI is all about providing the same service. While one can quibble with use of words, this reflects a big difference in intended approach. We are still in that failed downstream zone, using regulatory concepts that have failed, leading to the need for the network division solution.

Telecom's proposal applies to far fewer products than in the BT model

There's a big difference between the range of products covered by BT's NGN commitment and Telecom's proposed commitment. You'd struggle to pick that up from the main part of Telecom's submissions. Many (including buy select committee members) would only read those 28 pages without going to the appendices. Like their use of BT terminology and concepts in other areas (e.g. EoI), you have to dig deep to understand the position (almost like a lawyer having to delve into the fine print in a contract).

The main submissions don't set out which services will be covered by the NGN commitment and by the operational separation plan. They just say that "targeted access services" are covered. It's a big feature for them but that's hard to pick from the main pages. The only reference in the main part to what "targeted access services" are is in the statement that they are as "identified in the Glossary in this submission".

So we go to the glossary definition of "Targeted Access Services". These are specified as only the new services that fit within the proposed changes to the Act (upsized UBS, nsl DSL and LLU services (plus associated backhaul)). Sure, "targeted access services" are said to "include" those regulated DSL-related services, but it's clear enough that Telecom wants to make its commitment only in respect of these services.

That leaves out many existing and new services. Significant omissions include business data tails, voice interconnection, and fibre to the premises (FTTP). Rightly or wrongly, off the list are regulated services such as wholesale equivalents of Telecom's pivotal business solution, One Office (a centerpiece of the Telecom NGN-based services).

Contrary to the BT model, which applies the EoI requirement to existing products, Telecom's commitment only applies to new regulated services. This means the EoI commitment does not apply in practice until 2008 at the earliest (that's a far longer timeframe than in the UK).

Conclusion

The solutions that Telecom propose fall well short of the BT model and they remain in the downstream zone, a space in respect of which regulators and commentators consider there has been failure. The question should be "What reasons are there not to adopt the BT model?" rather than the other way around.

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