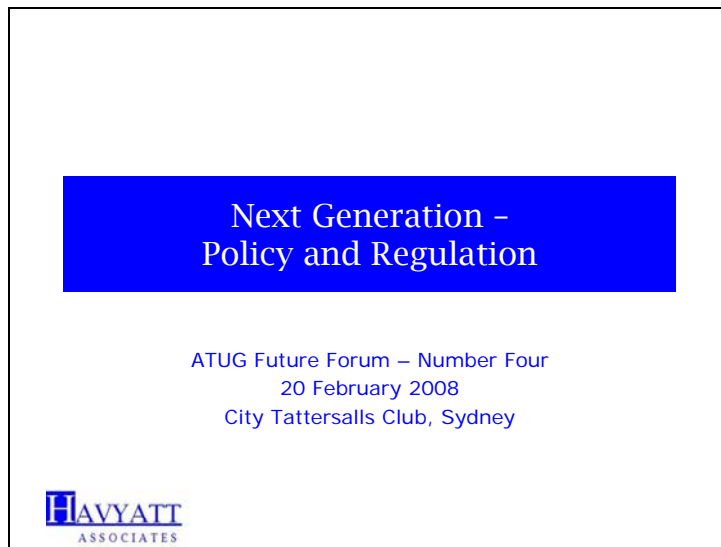


**Next Generation Policy and Regulation  
Paper presented to the ATUG Future Forum  
(note text in red was omitted in delivery)**



Between March and June 2007 Access Economics was engaged at a cost of \$194,040.00 on an NGN consultancy (source [www.dbcde.gov.au](http://www.dbcde.gov.au) Senate Order on Departmental Contracts).

We also note from the DCITA 06/07 annual report that “Next generation networks are internet protocol-based networks which promise to be more efficient and flexible than traditional communications networks. As part of a consultancy being conducted on behalf of the Department, Access Economics conducted two industry seminars during April and May 2007 examining the potential impact of next generation networks on the Australian telecommunications environment. Feedback from industry participants at the seminars helped to inform the consultancy’s consideration of next generation network issues.”

From my own sources I can advise that Access Economics delivered an 86 page report (with a larger second volume of attachments) dated 25 June 2007 entitled “Next Generation Networks (NGNs) and Their Policy, Regulatory and Wider Implications for Australia”. Unfortunately the previous Government didn’t see fit to release this report and the new Government hasn’t done so either.

It is a pity that our Governments spend our money but don’t share the fruits of the inquiry. So we have a seminar that will try to cover in two hours the same territory!

## Outline

- What does “next generation” mean?
- What is policy?
- What is the purpose of regulation?
- Bringing it all together



Next Generation – Policy and Regulation

I’m not going to try to read the rat’s entrails and expand from one small comment by the Minister into a whole interpretation. Nothing I have heard suggests other than that the Government remains committed to giving up to \$4.7B to someone, that Telstra says it doesn’t want it so it will presumably someone else, and it doesn’t matter if it is a PPP or a grant, it won’t be a per user subsidy.

I’m going to pose three questions and then bring them together at the end. These questions are;

- What does “next generation” mean?
- What is the purpose of policy?
- What is the purpose of regulation?

At the end I want to bring it all together into a meaningful contribution to the heading Next Generation – Policy and Regulation.

## What does “next generation” mean?

- Not just new but different
- NGNs
- NGN enabled services
  - o Web 2.0
  - o Enterprise 2.0
  - o Conferencing



Telemedia Model



Any-to-any Model



Next Generation – Policy and Regulation

In general usage when we use the phrase “next generation” we don’t just mean incremental change or even significant change within the pre-existing framework. After all the world changes every day (not just on September 11) – as Heraclitus said “No man ever steps in the same river twice.” **Generational change reflects something that is different in multiple dimensions, in type not just scale.**


In the use of NGN it refers to an all IP network, but it carries the implications of integrated services like the once promised Broadband ISDN, it means the delivery of high bandwidth so that bandwidth doesn't become the limitation.

NGNs offer a lot more than just cheap voice and fast downloads, they encompass the world of Web 2.0 and Enterprise 2.0 services and the promise of high quality cheap conferencing.

A version of convergence that is occurring is taking applications (and bandwidths) that we are used to thinking of in a Telemedia model (delivery of content) to application in a person-to-person model or any-to-any model (as we are used to in voice). That's really what the next generation piece is here.

## What is policy?

- A course of action
  - o Objectives
  - o Legislation
  - o Institutional structures
  - o Programs
- Current policy ...
- ...is a compromise of changing everything and have nothing change.

 Next Generation – Policy and Regulation

Policy is a definite course or line of action, in this case, as adopted by a Government. Good policy is a coherent framework for individual actions. Throwing \$4.7B at something is a sub-element of policy; the policy is broader than that.

Policy includes a number of elements; it includes objectives, legislation, institutional structures, and programs. It also includes a rhetoric or a dialogue by which policy makers shape and influence the expectations of others in society – **inflation targeting works like this.**

To describe policy let's remind ourselves of the current policy. Firstly telecommunications and broadcasting are covered by different policies – though they share elements.

The objectives includes the international competitiveness of the sector (as an input) and hence the LTIE test, together with an objective of using self-regulation.

Legislation includes the Telecommunications Act, the T(CP&SS)Act and Parts XIB and XIC of the TPA. The principle purpose of the TA and T(CP&SS) Act is licensing of operators (both carriers and carriage service providers) and matching this with their obligations such as emergency services, directory assistance and assistance with law enforcement. The TPA provisions are about market opening and competition preservation, **which work together with some aspects of the Radcoms Act to promote entry.**

The institutional structures include the ACCC, ACMA, TIO, industry associations able to make codes, and – indeed – the non-exclusion of vertical integration. On top of this we've had this plethora of programs. Stephen Conroy I think counted it as 17 programs, that have preceded his \$4.7B where money has been dolled out to people to achieve some kind of outcome. **Programs include the USO, the NTN and Broadband and Clever Networks programs.**


But ultimately the existing policy framework is a consequence of changing everything while trying to assure the masses that nothing will change. That was all married up with individuals

concerns about the consequences of introducing competition, together with the endless process of buying votes for the privatisation of Telstra. We have the most illogically constructed set of policy frameworks ever constructed by mankind. The objective of competition is “cost reflective prices” but prices for consumers couldn’t change, untimed local calls were preserved, **service standards that had never existed before were “guaranteed”**, and we’ve got this bloody USO regime that no one understands but gee it makes everyone feel good.

## What is the purpose of regulation?

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- ☐ Regulation is a consequence of policy
- ☐ Regulation vs private law
  - *directive, public, centralised*
- ☐ The “market failure” purpose of regulation
- ☐ The “market design” approach to regulation

Next Generation – Policy and Regulation

Regulation is a component of policy, it is not the equivalent of policy. It is sometimes mistaken to be the equivalent of policy.

A distinction is drawn by theorists between regulation and private law in the sense that private law is a matter between market participants, whereas regulation deals with a collective organisation. (Ogus) Under this view regulation is directive, public and centralised.

In an era of general acceptance of the “efficiency of markets” there has grown a theory of regulation that justifies regulation where there are instances of “market failure”. Classical causes of market failure are monopoly, externality, public goods and information asymmetry. However, it is a poor approach because all markets suffer from some of these “imperfections” – it creates an opportunity for extensive directive regulation.

A better approach is to think in terms of market design – it is, in fact, worth noting that the whole area of “contract” the supposedly “private law” of markets is a piece of market design regulation. We are actually used to market design regulation in areas such as the ASX – where the rules have been cooperatively defined by the market participants (in the days when we had competing exchanges). **Sports are all examples of cooperative design of rules.**

**One of the first things anyone learns in a fully planned economy is that “black markets” develop, because the preferences of individuals creates an incentive for them to forgo something they are (pre)destined to have for something they are (pre)destined not to have.**

**In the market design view we acknowledge that even the institutions of property rights and private law (contract/torts) are elements of regulation and all markets are regulated – the market and regulation are not opposites but things that need to work in coordination.**

## Bringing it all together

- ❑ Industry structure – where are there scale and scope efficiencies?
- ❑ Vertical coordination – how do we design “contract” structures that facilitate growth?
- ❑ Consumer markets – what rules should apply to promote choice?
- ❑ Industry development – what can we do to not be a branch economy?



Next Generation – Policy and Regulation

The elephant in the room in discussions of telecommunications policy is industry structure. Go read the most recent stuff from Telstra on the G9 and its structural separation elements. They wax lyrical on their scale and scope efficiencies. If you believe that we should not be introducing competition, it is socially and economically wasteful. If you believe in the scale and scope efficiencies you should also read Galbraith's *The New Industrial State* and realise the whole structure of market theory is a load of 'clap-trap'. Let's be abundantly clear – efficiencies of scale and scope are sufficient to determine a natural monopoly and we need to know whether they really do apply to the integrated firm or just network elements. We should not promote duplication of anything that is a natural monopoly. **This is an empirical question that can only be answered with access to private information.**

If we are going to have multiple players operating at different levels how do we get co-ordination to happen. Let's not just say it is hard, but decide to do it. To quote JFK “we choose to go to the moon not because it is easy but because it is hard”. **There is a whole body of literature on clever contract designs yet the telco debate is littered with single part take it or leave it (wholesale) prices.**

**This is compounded by the kind of lack of information that continues to promote inefficient over-investment – the DSLAM story of there being exchanges with eleven different providers in them.**

Confusopoly was a word coined to describe energy markets, but it works perfectly well with telco. Anyone who seriously believes a consumer or a corporation can make an informed choice about telecommunications services in the Australian market place is smoking dope. You cannot say you have an effectively competitive environment when that is occurring. **Creating meaningful choice does not mean giving customers eternally more structures and choices, with commensurately larger “search costs”. Good market design would ultimately restrict the number and type of offers available. Good market design would prohibit “bundling” offers (except passing on to consumers the small genuine administrative cost saving).**

How do we not talk of “standards development” as something that happens somewhere else.

Thank you

David Havyatt  
[david@havyatt.com.au](mailto:david@havyatt.com.au)  
[www.havyatt.com.au](http://www.havyatt.com.au)  
+61 2 9869 2532  
+61 414 467 271



Next Generation – Policy and Regulation

I think there is a huge challenge on next generation policy and regulation. It isn't just captured in questions of how to deliver broadband. It is time we got very demanding that we think there a whole lot of things that need to be worked on – and what we spent \$194,00 of our money on.