

Elizabeth Aitken
800A Wattamolla Rd
Wattamolla NSW 2535

Friday, 5 March 2010

Attention : Paul Gibson

Dear Mr Gibson,

Re: Submission on Telecommunications availability in Rural and Regional Communities

I am computer professional working and living in regional Australia full time since 1996. In 2000 I relocated to Kangaroo Valley NSW and have had many struggles in this time to access reasonable broadband services for my business. Since mid 2000 I have been writing a monthly column for our local newspaper, The Voice called "Mr Floppy". During the last 10 years I have written at least 24 columns on broadband, Telstra and Internet connectivity in an effort to educate the local community about the level of service they are receiving and also to demystify the subject.

In regional Australia we are poor cousins to urban areas forced to use slow and expensive broadband options with small download limits, significant latency and lack of competitive options.

I attach several columns that I have written about broadband. Two of these columns relate to the struggle that a local valley resident, Professor Peter Botsman has had trying to access an equitable broadband service. I believe these columns sum up the frustrations we have in regional Australia.

I am happy to assist in person if required.

Yours faithfully

Elizabeth Aitken

Mr Floppy October 2007 – Broadly Speaking

In which we remain confused about broadband and whether we will ever receive even a fraction of the infrastructure offered in urban areas.

On 10th September, the federal government finally signed off on the deal to handover \$1billion of tax-payers money to OPEL (the Optus Elders consortium) to achieve a broadband service for the bush. This signing was in spite of Telstra

taking legal action against Senator Coonan in the Federal Court alleging procedural unfairness in the tender process.

Industry analysts and Mr. Floppy believe that the proposed OPEL network design is built on out dated WiMax technology and the use of public spectrum which so far has been used by small regional ISP's to provide wireless broadband.

Any questions raised about the proposed networks ability to manage line of sight issues remain unanswered so far. This is a concern to many residents in Kangaroo Valley as they cannot receive ADSL or wireless broadband as they are too far from the exchange and are not in sight of the wireless broadband transmitters. To remind readers, whether using wireless broadband or the proposed WiMax technology when using the public spectrum your power output is limited and so the signal cannot propagate through buildings or leafy foliage.

Senator Coonan's glib reassurances that all those who cannot receive broadband will be able to access a satellite service under the ABG (Australian Broadband Guarantee) scheme is hardly comforting for those in the know and here's why.

Download/Upload Speed

If you imagine the internet is a cloud in the sky. All broadband whether cable, ADSL or satellite is measured by how fast you can suck stuff down from the internet and how fast you can push stuff up to the internet.

Amount of Information

The amount of information you are allowed to take each month through your broadband connection depends on the plan you are on. Usually the more information you are allowed to download the more expensive the plan. If you exceed this amount you will be charged or your connection will slow down. Note that Westnet's ABG subsidised satellite service is 60% dearer than the equivalent Westnet ADSL plan for the same amount of information*.

Latency

Latency is the time delay between something being initiated and the moment when one of the effects becomes detectable. On the internet an example of latency is when you click on a link to load a page and it loads.

All broadband connections suffer from latency but satellite connections suffer from the most latency. The satellite is the size of a phone box 36,000 kilometre above the earth. The distance the traffic has to travel on a satellite system is much further than a land based cable system like ADSL.

On a satellite connection the latency means all interactive software and hardware will not run successfully (e.g. VoIP telephones, games, cameras, video conferencing).

Cost

This will be subsidised by the ABG and the installation costs will be mostly free to the subscriber.

How the other half live

The minimum download/upload speed that the ABG scheme offers is 512/128kbs. It doesn't matter if you don't understand what kbps are – let's examine the speeds on offer:

- ABG satellite 512kpbs.
- Cable, only available in large urban areas, varies between 17,000kpbs and 30,000kpbs. That's roughly **30 to 60 times faster** than ABG satellite.
- ADSL 1 goes from 1,500kpbs and 8,000kpbs. That's **3 to 16 times faster** than ABG satellite.
- ADSL 2, only available in selected urban centres, races from 8,000kpbs to 20,000kpbs. That's **16 to 40 times faster** than ABG satellite.
- Telstra NEXTG has just announced 6000kpbs wireless, that's **12 times faster** than the ABG satellite.

A fast broadband connection – necessary or not?

Many studies show that economic prosperity and development is linked to good broadband infrastructure. This is doubly important in regional areas, already penalised by their distance from large markets.

So when Senator Coonan tries to reassure you that the ABG scheme will deliver you a broadband connection. It will give you a broadband connection that right from installation lags substantially behind urban broadband services and is set to fall further behind.

Many valley residents, My Floppy included, use satellite internet connections. It beats a dialup phone connection hands down but we want investment in our future infrastructure in the Shoalhaven. We don't accept that our only option for true broadband is via artificial schemes such as ABG especially when proposed new infrastructure like OPEL looks certain to fall short on its promises.

What can you do? Write or telephone Joanna Gash, the Federal Member for Gilmore 44231 782 email joanna.gash@aph.gov.au

* It should be noted that the Westnet website states that your satellite contract is for a minimum of 12 months and is offering a six month ½ price special of 64.98. Mr Floppy has averaged out the cost for 12 months based on 6 months at 50% discount then 6 months at undiscounted rate.

MR Floppy August 2008

My cynicism about all things to do with Telstra, federal government and infrastructure provided in rural areas is peaking this month.

Government is motivated

We can all feel better when using our expensive and slow broadband service as this government is “motivated” to improve bush telecommunications according to a warm, glowing fuzzy piece of news on the ABC news website. Chairman, Bill Glasson’s Regional Telecommunications Independent Review Committee is due to report to the Minister of Communication, Stephen Conroy at the end of August with recommendations on how services in rural and remote areas can be improved. The previous government’s OPEL proposal has died in the water due to design flaws and the use of dated technology. Some of us are still waiting for decent broadband infrastructure that is metropolitan comparable in speed and price. Can someone tell me why we needed yet another report from another body staffed with people who know very little about telecommunications infrastructure to tell the government that rural broadband infrastructure is crap. We know that already and the government knows it too. This is just another exercise in delaying making a decision. Keep on lobbying our local Member for Gilmore, Joanna Gash, she might enjoy needling the government as a member of the opposition. The state of broadband in the bush is woeful.

Cable Cutting

There has been a rash of cable cuts. Those pesky fibre optic cables keep leaping in front of contractor’s equipment just asking to be sliced apart. The ABC News site reports 6 fibre optic cable cuts since May. The trouble is each time a fibre optic cable is cut ten of thousands of people are affected. A recent fibre optic cable cut in Queensland saw no mobile, Internet or landline service at least a day. Part of the problem is that Telstra subcontracts out excavation and laying of new cables to different companies.

A Dial before you Dig diagram used to show exactly where the cables are laid on a property, where it entered a property and the path it ran. Now it just shows that cables are in the vicinity but not exactly where.

As we depend more and more on telecommunications for running our business when can we start seeking compensation from telcos for the non-provision of service. The last Telstra outage at the Floppy house was caused by a cable cut by Telstra sub contractors. Telstra kindly offered to redirect the house phone to a mobile number. Pointing out through clenched teeth that “perhaps if one got mobile service at all then it would be a useful service” and “no, 2 weeks time to fix something that you guys broke in the first place is not acceptable” and “how will I run my business in the mean time” all wash off the centralised help line robots.

So hasn’t the privatisation of Telstra worked wonders for the rural sector. We can hardly wait for the privatisation of electricity in NSW.

IPHONE

Nearly all the technology press could write about this month was the Iphone, recently released in Australia. Ten things we love, 10 things we hate and the usual mac fans vs windows cynics. I too could bring you a cutting edge review on the new Iphone if I could buy one. If I travel to Campbelltown and pay a substantial deposit then I will be on the preferred list that will be eligible to may be receive one if and when it becomes available. Not even the love affair I'm now having with my new IMac could tempt me to Campbelltown.

Until next month

Mr Floppy July 2009

Several months ago I briefly mentioned that a local resident was locked in battle with Telstra and had taken Telstra to court over the non supply of cost effective broadband. This is Peter Botsman's story and his fight to have access to cheap reliable broadband.

Before you read on it's important to understand that there are many different types of broadband and each broadband type has different pricing structures and speeds.

The quirky thing about broadband both in the valley and throughout Australia is that one home may receive a world class broadband connection while the house next door 50 metres away can not. If the house next door wants broadband they will have to pay substantially more often than not for a slower service. The best type of broadband is ADSL and Telstra will only install it if you live 7km (or less) from the exchange. If your house is 7.01km from the exchange then Telstra will not install it, Telstra claims that the ADSL signal is too weak. This then means you must use other types of broadband such as Telstra wireless or satellite. These other options are usually more expensive and slow.

In 2000 in frustration at the lack of broadband availability in Kangaroo Valley, Peter organised a petition to lobby Telstra to bring broadband into the valley. He collected approximately 130 signatures and in 2005 Telstra proudly announced the introduction of ADSL broadband into Kangaroo Valley. Telstra installed ADSL to the exchange in town and Upper River but sadly Peter could still not receive ADSL. Peter's house is located approximately 7.1km from the Upper River exchange and 7.6 from the exchange in town but there was some optimistic news mid year.

In 2005 Telstra successfully trialled a device that boosted the ADSL signal so ADSL could be received up to 20km away from the exchange. These devices are relatively inexpensive, robust and easy to install. Telstra then announced through the media that these devices would be installed in 200 exchanges by the end of the 2005. Fantastic news we could all get cheap fast broadband!! Then something very strange happened Telstra purchased all the available ADSL boosters from the company called Extel and never installed a single booster. If there was a technical problem with the device we never heard about it.

<http://forums.whirlpool.net.au/forum-replies-archive.cfm/356837.html>

<http://forums.whirlpool.net.au/forum-replies-archive.cfm/356837.html>

<http://slashdot.org/article.pl?sid=05/08/18/1345246&tid=230>

This sounds like I'm being a conspiracy theorist but I suggest you read the full transcript of the interview and the Internet links above. It's an interesting story and we should be grateful that people like Peter are willing to take on these battles when most of us would have given up some time ago.

Pete's next big moment will be on 16 July at Moss Vale Court House, Argyle St, Moss Vale at 9.30am. If any valley resident is interested in supporting Peter or experiencing the same problems go along to the tribunal and hear Telstra put forward its case.

Below is the full transcript of the interview between Mr Floppy and Peter Botsman.

MrFloppy: I understand that you'll be heading to court next month for the second time. You are in fact taking Telstra to the Consumer, Traders and Tenancy Tribunal or CTTT. That's a big step and we'd like to know where this all began for you

Peter Botsman: When we first moved to the valley broadband was unavailable to everybody in the valley. That was around 2000, around that period. Between 2000 and 2005 a bunch of us created petitions to get broadband brought into the valley. About 130 people signed a petition to lobby Telstra to have the lowest form of broadband and satellite available to the valley. Around 2005 Telstra said that not only would they be able to provide with these minimum forms of broadband they would be able to supply us with the fastest cheapest broadband available. This was the time of what was called the Telstra Countrywide program. People might remember Telstra laying cables all round the valley all the cabling that was laid at that time including fibre optic cable. We all thought this was great and two court cases later and considerable cost the great majority of the valley still do not have access to these services that were promised way back in the early 2000s

MrFloppy: So what is the problem?

Peter Botsman: Well the problem is that during the years I've been trying to do business in the valley with my farm and various other internet projects I've been running it's cost me \$40,000 to have very slow and substandard internet access and if most businesses had to pay this costs and put up with this low standard of telecommunications they'd go broke. That's whether you're a farmer accessing for example a new surveillance technology, changing gates between paddocks or registering the number of cows to sell at a stud or whether you're a freelance journalist basically anyone in business. A real estate agent or a tourist operation promoting their business on the Internet. The costs, reliability and quality of the service are just so third world and out of date and you pay so much for it that it becomes a huge issue.

MrFloppy: So what do you want Telstra to about it and does it have to be Telstra in this era of deregulated telecommunications?

Peter Botsman: Look I just I want the same level of broadband service and price that people who live in town or near the Upper River Hall or at Glengarry can get. This is so important for me and not just for me but the vast majority I would say of Kangaroo Valley residents.

MrFloppy: But isn't that pie in the sky?

Peter Botsman: We know that there is a device that Telstra have trialled and is inexpensive to allow that would allow every single person in the valley to have the best quality and price of broadband. As I said these are relatively inexpensive and can be installed in a short time

MrFloppy: So why doesn't Telstra install this device into the exchange?

Peter Botsman: Well ironically it only costs \$5000 to put in one of these ADSL boosters. Telstra not only won't do it but they bought all of the available boosters after having successfully trialled this technology in about 6 different areas of Australia in all the states and they refused to install them. The reason they don't want to install them, in my view is that it would mean they would lose customers and be subject to more competition from other providers

MrFloppy: So why couldn't the community or you buy one of these devices and install them?

Peter Botsman: Well we could and in fact I would love to buy one of these boosters and install it myself given the prices I've been paying but Telstra have the sole ability to make any modification to the exchanges so even if I could buy one and access one I would be not allowed to install one of these boosters into the exchange and not only that most other companies would be prohibited from doing this so we're all completely snookered and in Telstra's hands.

MrFloppy: So Telstra's refusal to install this device what does this mean for costs for you Peter?

Peter Botsman: If you're one of the lucky ones in the valley you'll pay about \$25 for a first class Maserati broadband service. But otherwise you will pay a minimum of 10 times that rate for a clapped Model T Ford one that will hardly get you down the road. If you're very unlucky you'll pay a hundred times the cost of what your neighbours might pay based solely on where your home is situated. I might add that this is not just the case in the Valley, in any suburb in any region of Australia those people who live more than 7km from a Cmux exchanges are in the same boat. They may pay hundred of times the cost that those houses located around the exchanges might pay

MrFloppy: So Peter aren't you just moaning because you've unwittingly bought a property that's located in the wrong place?

Peter Botsman: Well yes you are absolutely right and Telstra's advice to me is move your home if you want a good service. That is the reality of the telecommunications model we've currently got in Australia. In my view its wrong and Telstra is using its market power to price gouge and resist competition from other providers. They wont provide us with the service and they wont let us provide the service to each other. Given the cost of my bill I could easily put that new ADSL booster in to the local exchange and do myself and my neighbours a big service but you cant do it. The way the rules are Telstra controls the exchanges and it has power over the telephone lines into your home. It can also operate as a competitor and stop other competitors from getting into its' market and that's what this is all about

MrFloppy: So isn't in fact Telstra operating some anti trust type business practices?

Peter Botsman: Well yes I think it is and this is the reason I'm trying to fight Telstra in the court battle and I need to hear from as many people as possible who are in a similar boat so we can give some power to our challenge to Telstra's ability to do these things. The problem that we've got is that currently the ACCC and in fact even the telecommunications users group accept this spurious argument from Telstra that 7 km away from the exchange the signal is weak and therefore you cant get a best quality service therefore they wont install it. The truth is we know from overseas context and their own trials with this new technology we can receive ADSL signals much further away than 7km.

At the moment the regulatory authorities accept Telstra's technical standard and that's what Telstra is hiding behind. That what we've got to blast into the open and it's going to require a lot of ordinary people to understand these arguments and to really push hard to get Telstra to change its ways.

Mr Floppy: Thanks very much your time Peter and good luck with your court case next month.

Mr Floppy August 2009

Trader & Tenancy Tribunal

Last month the story of Peter Botsman, a Kangaroo Valley resident who has dared to take Telstra to court twice had many locals taking note.

The “Consumer, Tenancy and Trader Tribunal” heard Peter’s case on July 16th at Moss Vale Court House.

I followed up with Peter about the outcome of his case.

Telstra have now settled with Peter. One of the acceptance conditions is that Peter cannot discuss the settlement at all. Peter sounded frustrated that nobody was at the tribunal hearing. The settlement was read out at the hearing in full prior to being “sealed”. He agonised for more than an hour before accepting Telstra’s offer feeling that he lacked the energy to keep on fighting. He deserves kudos for taking on Telstra over 5 years, 2 hearings and many exorbitant phone bills.

While we cant know the final details of the settlement it’s fortunate that my previous interview with Peter was so detailed. He gave the Valley Voice all the supporting documentation last month so we are free to speculate about what the settlement offer contained.

To understand the basis of Peter’s case against Telstra we need to look at the scope of the CTTT, how Telstra has an unfair market advantage in regional Australia and the history of broadband in the valley.

Peter took his dispute to the Consumer, Trader and Tenancy Tribunal rather than the common law court where he risked substantial legal costs. In the court he also would be pitted against the finest legal minds that Telstra could buy. Although Peter is a person of strict principle the real possibility of losing the family home meant that attacking Telstra through the law courts was not viable. Peter called the CTTT the small people’s court and it’s the one place where individuals can seek redress from large companies without risking “their all”. There is no formal counsel and the parties are encouraged to mediate and resolve their differences on their own.

The tribunal is bound by statute and not common law and this means that Consumer Claims Act of NSW binds what falls under the CTTT’s jurisdiction

The First Case

Peter brought a two-part case to the CTTT in November 2008 against Telstra

- a) That Telstra was overcharging for its services
- b) That Telstra breached its contract to provide ADSL broadband services to his premises.

This case was partially successful. Telstra paid compensation to Peter but the Tribunal dismissed the second part of the case “on the basis that the Tribunal does not have the jurisdiction to make orders sought by the applicant”.

In March 2005 Peter received a letter from Telstra headed “Bigpond Broadband ADSL”. “Telstra has recently completed upgrade work in the local area which will increase the availability of ADSL to households in Kangaroo Valley...”

Hooray finally what Peter had wanted. He had helped Telstra collect the 150 signatures of interested parties and had even appeared in a Telstra advertising campaign to promote “networking the nation”. There was a caveat or get out clause in this letter “...telephone service passing service qualification in terms of cable distance and technology compatibility”. I’m sure many of you received this letter, got excited about the possibility of ADSL broadband and then were disappointed.

Of course Peter applied for ADSL only to find that his premises failed the service qualification. He was too far from the exchange in town or Upper River. This was the magic 7 kilometres from the Telstra Cmux Exchange. He was then offered a more expensive and slower broadband option, a satellite. Peter was forced to take this option as his business would have collapsed without it.

The get out clause in this letter of promise meant the CTTT decided that Telstra did not have a contract with Peter to provide ADSL so therefore it was outside the tribunal’s jurisdiction to hear the second part of Peter’s case.

Why is Peter so insistent that he receives ADSL and what does it matter? This is the key to understanding how Telstra is unfairly using its market advantage to lock many regional Australians into expensive contracts using slower broadband technology.

Unlike other broadband options ADSL runs on your ordinary phone line, the copper cable that runs from the exchange to your house. It uses a digital frequency to send and receive data at high speed and you can even use your analog fax machine and telephone for voice calls simultaneously. If you can receive an ADSL service you can shop around from any number of Internet providers who offer cheap and competitive internet packages that meet your personal and business needs. Once you cant receive ADSL your options get slower and more expensive and competition is limited to a handful of companies. Not only that things such as cheap phone calls over the Internet just don’t work (satellite) so cost effective technological innovations are not available to you.

ADSL doesn’t just stop at 7 kilometres the signal starts degrading so it’s possible that at 7.1 kilometres from the exchange your ADSL would work just fine. In January 2005 Telstra trialled ADSL booster technology designed by an Australian company Extel Communications. These new boosters would mean that people could receive ADSL potentially up to 20 kilometres away. The trials were an undisputed success and Telstra indicated that the new technology was cheap, easy to install and effective. Not only that Telstra purchased 500 units (according to their public press release) and slated their installation for September 2005.

This was the last mention of ADSL boosters. All press releases were pulled from the Telstra website and the Telstra line that ADSL could only be received up to 7 kilometres became set in stone. It was this deliberate killing of technology and forcing many of us to use satellite or Telstra Wireless Broadband (Telstra NextG) that made Peter determined that he would fight Telstra in any way possible. He feels that this type of business practice impacts all regional Australians not just Kangaroo Valley.

The second case 09/06752 Botsman vs. Telstra

How could it be that Peter could end up back at the CTTT less than six months after his last application. His claim and case hadn't changed. Telstra still couldn't or wouldn't supply ADSL even though Telstra appears to have the means (ADSL boosters).

On 15 January 2009 a Telstra salesman contacted Peter Botsman offering him ADSL. Listening to the transcript of the recording you can hear the cynical wariness in Peter's voice and incredulity that Telstra could now offer him ADSL. For 45 minutes he cross-questioned the Telstra person about how he could now receive ADSL. Peter at that time was receiving broadband from Westnet, a Telstra competitor.

Peter offered up the history of his complaints against Telstra to the salesman and was assured that ADSL was possible for his premises. Peter decided to accept Telstra's offer and so we have a verbal contract.

What happened then is the stuff of business nightmare. Over the next 2 weeks he received 3 identical letters from Telstra with an ADSL activation number and user number. Things were looking good for Peter but

- Telstra switched over all his phone and internet services from Westnet without telling Peter
- Telstra switched over his email to Telstra Bigpond ADSL disrupting his current Westnet email services so Peter could not receive email
- Telstra caused considerable disruption to Peter's business

On 12th Feb 2009 on the day that ADSL was supposed to be connected Telstra telephoned Peter 28 days from the time of the verbal contract and after considerable disruption said that he could NOT have ADSL for all the reasons as before. Telstra then offered wireless broadband at double or triple the costs of ADSL

The settlement - What could Telstra have offered to Peter to induce him to settle?

Peter asked the tribunal to compel Telstra to supply him with equivalent ADSL services, speed and costs as offered in the ADSL contract above and to offer compensation for damages to his business as a result of their breach.

We can speculate that Telstra have reduced the price of their wireless broadband option to be equivalent to the ADSL service he was offered. Let's hope its for the duration of the product and let's hope Telstra made a reasonable compensation offer to Peter Botsman.

Telstra

The Valley Voice also contacted Patrick Nolan, Telstra CountryWide manager based in Wollongong. Mr Nolan who represented Telstra at the hearing had no comment to make about the case but discussed Telstra's policies on broadband in Kangaroo Valley. Telstra's position remains unchanged and that as a commercial entity Telstra's first loyalty is to make money for the shareholders not provide service to regional Australia. He was quick to suggest that the 7 kilometres is not the "be all". Some households may be closer than 7 kilometres and still not be able to gain access to ADSL due to other issues such as a network blocker or pair gain systems.

Mr Nolan indicated that Telstra would consider proposals to install equipment or for individuals and community groups to meet costs for upgrades to exchanges or lines so that ADSL is possible.