

# Feedback on the 2010 SubOptic Model Contract

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## Presenter Profile

Keith Schofield is a seasoned commercial development director and general manager of complex telecommunications infrastructure projects at Pioneer Consulting. With more than 31 years' experience, he has been successfully implementing projects within the submarine fiber optics industry and providing related advisory services to the finance, carrier and manufacturer community.



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# Feedback – 2010 Model Contract

- The new entrants to the market (both prospective owners and those on the supply side) very much appreciate the current 2010 model, and the commentary.
- It addressed the concerns of **PURCHASERS** and **SUPPLIERS** who felt that previous Consortium templates were loaded with additional conditions that (in their view) unnecessarily increased the cost of submarine cable systems through an unbalanced apportionment of risk, and opened the debate on where that balance should rest.
- We have had positive responses from the legal community to both the 2010 model and the commentary when addressing non-consortium projects.
- A number of non-consortium projects have drawn on the 2010 model as a resource on which to base their own contract documents.

## Feedback – 2010 Model Contract - continued

- A number of non-consortium projects have drawn on the 2010 model as a resource on which to base their own contract documents.
- The production of the 2010 model provoked a desire among Consortium owners to draft a ‘clean’ Consortium Template that was efficiently drafted.

## BUT . . .

- A number of non-consortium projects have drawn on the 2010 model as a resource on which to base their own contract documents.
- Some Purchasers involved in consortia felt that the 2010 model did not address some of their concerns, prompting the preparation of a new document that was more strongly weighted in favour of the Purchaser, which they saw as a weakness of the 2010 model.

## SO the outcome is:

- The industry should be offered the opportunity to see a Consortium draft that takes the best of the legal drafting principles of the 2010 model, but more closely reflects the interests of the Purchasers,

## AND therefore . . .

- Neither Model should be viewed only as a ‘Supplier’ or ‘Purchaser’ draft. Both should also be viewed as a resource to inform any parties who wish to negotiate a submarine cable contract in a way that is unconstrained by the perceived interests of the people who drafted the two Model documents. The debate should move beyond talk of a ‘Supplier’ or ‘Purchaser’ draft. Every final contract is a unique negotiation between the involved parties, who may choose whatever template (or none) to draft their agreements.
- The commentary accompanying the document is a key resource to assist in the drafting of optimal contracts for consortia and private cable projects.

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