



**Australian
Competition &
Consumer
Commission**

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Our ref: 47685
Your ref:
Contact officer: Scott Harding
Contact phone: 03 9658 6434

29 January 2013

Ms Caroline Lovell
Head of Regulatory Affairs and Industry Analysis
NBN Co Limited

Dear Ms Lovell

Re: NBN Co Limited Special Access Undertaking - request for further information

I refer to the Special Access Undertaking lodged with the Australian Competition and Consumer Commission (the ACCC) on 18 December 2012 (the SAU).

The purpose of this letter is to request further information from NBN Co Limited (NBN Co) to assist the ACCC in its assessment of the SAU. I note that this request for information is not a formal request under section 152CBB of the *Competition and Consumer Act 2010* (CCA).

Given the proposed 30 year term of the SAU and the inherent uncertainties over this period, the ACCC considers that it should fully inform itself of the range of ways in which the SAU may operate over its term. The ACCC considers that quantitative analysis of the price controls and long-term revenue constraint proposed in the SAU is a necessary input to making an informed decision about whether it can be satisfied that the SAU meets the statutory criteria in section 152CBD of the CCA.

The ACCC requests the following information from NBN Co:

1. *For each year of the SAU period (in particular, each year between the Cost Commencement Date to the SAU Expiry Date):*
 - a. *forecast capital expenditure per asset type (as listed in the SAU and NBN Co's audited accounts), including expected asset lives and tax asset lives;*
 - b. *forecast values of 'construction in progress';*
 - c. *forecast operating expenditure; and*

- d. the forecast value of asset disposals.*
- 2. *For each year of the SAU period (in particular, each year between the Cost Commencement Date to the SAU Expiry Date), forecast demand for each product component and feature that makes up the NBN Access Service, assuming:*
 - a. The price paths in the Corporate Plan are adopted*
 - b. The maximum price paths allowed by the SAU are adopted*
- 3. *For each year of the SAU period (in particular, each year between the Cost Commencement Date to the SAU Expiry Date), forecast prices for each product component and feature that makes up the NBN Access Service assuming:*
 - a. The price paths in the Corporate Plan are adopted*
 - b. The maximum price paths allowed by the SAU are adopted*
- 4. *For each year of the SAU period (in particular, each year between the Cost Commencement Date to the SAU Expiry Date), total revenue expected to be earned from:*
 - a. newly introduced product components and features that make up the NBN Access Service; and*
 - b. all sources other than the NBN Access Service.*

Please also provide a description of any assumptions used to develop these expenditure, demand, price and revenue forecasts.

This information will be used to model the implications of a range of cost, demand, pricing and revenue scenarios for the long-term revenue constraint methodology in the SAU over the SAU term. This will provide the ACCC with a more informed view on the expected length of the initial cost recovery period, and likely incentives generated by the SAU price controls.

The ACCC acknowledges the uncertainties associated with forecasting expenditure and revenue at this level of detail. However, information at this level of disaggregation for expenditure categories is sought because it is a direct input into the application of the methodology the SAU sets out for calculating the annual building block components. Disaggregated information on prices and demand is sought in order to assess the implications for revenues of changes in the levels of demand and prices for different products (e.g. AVC versus CVC).

Given that such information is contained in NBN Co's Corporate Plan 2012-15, albeit in a more aggregated form, the ACCC expects that NBN Co would have much of the requested information available. The ACCC therefore considers that the scope and timeframe of this information request is not unreasonable.

So that the ACCC's assessment of the SAU can proceed in a timely manner, the ACCC requests that NBN Co provide a completed version of the attached template, and any additional information necessary to fulfil this request, by 4pm on 12 February 2013. If we do not receive the requested information by this date, we note that the ACCC has the power under s 152CBB of the CCA to formally request NBN Co to

give the Commission the information. Such a request would extend the statutory deadline for accepting or rejecting the SAU by the period of time that any part of the request remains unfulfilled.

If you consider any information provided under this request to be commercial-in-confidence, please identify this in your response. If the information provided is commercial-in-confidence, we request that confidentiality arrangements between NBN Co and interested parties are established to facilitate the sharing of this information. If confidentiality arrangements are not established between NBN Co and interested parties for the sharing of information, the ACCC may consider providing the information to interested parties on a confidential basis.

I note that this letter will be published on the ACCC's website.

ACCC staff would be pleased to meet with NBN Co to discuss any questions about this information request.

If you wish to discuss any aspect of this matter, please do not hesitate to contact Scott Harding on 03 9658 6434.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Richard Home', with a stylized, flowing script.

Richard Home
General Manager
NBN Engagement and Group Coordination Branch
Australian Competition and Consumer Commission