

Submission

6th February 2023

Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601

Re: Record Keeping Rule – NBN Service Performance Consultation Paper

The Australian Communications Consumer Action Network (**ACCAN**) thanks the Australian Competition and Consumer Commission (**ACCC**) for the opportunity to provide feedback on its Record Keeping Rule – NBN Service Performance consultation paper.

ACCAN is the peak body that represents consumers on communications issues including telecommunications, broadband, and emerging new services. ACCAN provides a strong unified voice to industry and government as we work towards communications services that are trusted, inclusive and available for all.

ACCAN has long advocated for greater transparency when it comes to the service performance of the NBN, and alternative fixed line networks. ACCAN supports the development of a record keeping rule (**RKR**) for NBN Co's service quality and network performance, and for the ACCC to publicly report on the information collected. Further we support the extension of record keeping obligations to Superfast Broadband Access Service (**SBAS**) networks where metrics are applicable to SBAS providers.

Information disclosure regarding network performance will:

- Allow for greater scrutiny of network reliability.
- Work to ensure that networks remain accountable to consumers who have very limited choice regarding which network they access.

Transparency regarding service performance is critical to determining the effectiveness of additional operational and capital expenditure in delivering improvements in service quality. This will ensure that any additional costs passed onto consumers reflect investments to improve services.

The RKR should be amended to require NBN Co to provide capital and operating expenditure relevant to the delivery of the identified service metrics. This information should be provided at a sufficient level of granularity to allow for scrutiny of network expenditure and the effectiveness of this expenditure in driving service improvements over time.

While aggregate expenditure information is provided in NBN Co's public building block model, the information given is not granular enough to allow for genuine examination of what NBN Co is spending and how this relates to quality-of-service uplift. Additionally, should the RKR be extended to SBAS networks, this would allow for comparison between the amount different networks are spending on aspects of service quality.

ACCAN's response to the questions set out in the consultation paper are set out in **Attachment A**. If you have any questions regarding our response, please do not hesitate to contact me on 02 9288 4000.

Yours Sincerely,
Megan Ward
Senior Economic Advisor

The Australian Communications Consumer Action Network (ACCAN) is Australia's peak communication consumer organisation. The operation of ACCAN is made possible by funding provided by the Commonwealth of Australia under section 593 of the Telecommunications Act 1997. This funding is recovered from charges on telecommunications carriers.

Attachment A. Response to consultation paper questions

1. *Are the service aspects, service level metrics and proposed data set out in Attachment A appropriate for an RKR for NBN Co?*

ACCAN considers that the service aspects, service level metrics and proposed data set out in Attachment A are largely appropriate for an RKR for NBN Co. Noting the importance of appropriately specifying the data to be collected via the RKR, ACCAN considers that further consultation on any reporting workbooks be undertaken prior to finalisation of the RKR.

2. *To what extent should the service aspects, service level metrics and proposed data set out in Attachment A also apply to SBAS providers?*

ACCAN considers that to the extent the metrics proposed in Attachment A are applicable to SBAS providers they should also apply. ACCAN often hears from consumers on SBAS networks regarding issues of reliability and poor service quality.

Applying a similar RKR to SBAS providers will help to inform policymakers and consumers regarding the extent of service issues. At a minimum, an RKR for SBAS providers should include information on connections, transfers, faults and fault rectification and dropouts, appointment keeping, unplanned downtime, planned outages, traffic performance, rebates paid (if applicable).

ACCAN supports the publication of the basis of preparation by NBN Co and SBAS providers to ensure that the basis for any data reported under the RKR is clear. We note that where there are differences in the data reported due to differing levels of network visibility that this should be made clear in the supporting documentation.

3. *Should there be a threshold regarding SBAS network scale (e.g., number of end-users connected) before the provider is subject to an RKR for service quality and performance metrics?*

It is ACCAN's view that there should be no threshold to which an SBAS network could be exempt from being subject to an RKR for service quality and performance metrics.

4. *Should more or fewer metrics form part of the RKR? Could the proposed metrics be more clearly expressed or defined? If so, please provide details of any suggested changes and the reasoning supporting the changes proposed?*

ACCAN proposes the following changes to the RKR:

- Connection appointment punctuality,¹ should include the average time taken to get the consumer connected following a missed appointment.
- Time taken to connect premises for RSPs who request a faster connection time,² should include the average time to complete all accelerated connections.
- Time taken to transfer an NBN service from one retail service provider to another,³ should include the average time to complete service transfers.

¹ ACCC, 2022, Record Keeping Rule – NBN service performance consultation paper, Attachment A, Item 6.

² ACCC, 2022, Record Keeping Rule – NBN service performance consultation paper, Attachment A, Item 3.

³ ACCC, 2022, Record Keeping Rule – NBN service performance consultation paper, Attachment A, Item 5.

- Number of services where rebates are payable to retail service providers,⁴ should explicitly require information on rebates paid where Priority Assistance (PA) timeframes are missed.

Furthermore, number of planned and emergency outages,⁵ should include a metric to capture the availability of the network both as a percentage of time the NBN is available and operating, and as a total number of minutes where the network is unavailable. NBN Co currently publishes the percentage of time the network is available. For this metric, NBN Co considers that the network is 'unavailable' during the time NBN Co is restoring services where a fault has been raised. The metric does not include periods where the network is unavailable due to operational outages for network upgrades and improvements or due to events beyond NBN Co's control.⁶

Network unavailability should include the time NBN Co's services are not working, regardless of whether a fault has been raised, the outage is for network upgrades and improvements or due to reasons beyond NBN Co's control. This would more accurately reflect consumer experience of the network. This metric should then be disaggregated to account for the different causes of unavailability.

Information on whether the 'majority of the outage took place between' certain timeframes could be more clearly expressed to avoid confusion.⁷ For example, it is not clear how the data will be provided if an outage occurred equally over two different timeframes.⁸ It should be made clear how NBN Co is expected to provide data in this regard.

Whilst it is our preference that all reporting is based on actual data, should metrics be based on estimates, this should be done sparingly and the basis of preparation for the estimates published. This will allow for greater scrutiny of how metrics are being provided. Additionally, if SBAS providers are to be covered by a similar RKR it will assist in assessing whether different methodologies are being used.

5. *For the RKR for NBN Co we are considering using the definitions of key terms such as connections, faults, outages, performance incidents/dropouts etc currently used by NBN Co in its Wholesale Broadband Agreement. Are there any issues in adopting this approach?*

ACCAN considers it is appropriate that the definitions of key terms currently used by NBN Co in its Wholesale Broadband Agreement (WBA) are used in the RKR. However, over time, the definition of these terms will change with iterations of the WBA. It is important that the original definitions continue to be used for the RKR, to allow for comparisons over time.

If the WBA definitions change drastically, ACCAN considers it appropriate for the ACCC to amend the RKR following consultation, and where feasible the data should be amended to allow for historical comparisons.

⁴ ACCC, 2022, Record Keeping Rule – NBN service performance consultation paper, Attachment A, Item 20.

⁵ ACCC, 2022, Record Keeping Rule – NBN service performance consultation paper, Attachment A, Item 14.

⁶ NBN Co, 2022, "Australia, we've taken action." www.nbnco.com.au/corporate-information/about-nbn-co/updates/dashboard-september-2021, Accessed 03/02/2023.

⁷ ACCC, 2022, Record Keeping Rule – NBN service performance consultation paper, Attachment A, Item 14.

⁸ For example, where an outage begins at 12:00am and continues until 4:00pm the next day. In this scenario, the outage occurred for the entire 12:00am – 8:00am period (equalling 8 hours, 50% of the outage time), as well as the 8:00am – 4:00pm period (8 hours, 50% of the outage time).

6. *We are considering collecting data disaggregated by access network type and relevant location / geographic area. In addition, in Attachment A we have proposed the disaggregation of data which is specific to certain data items. We are seeking views on whether the levels of disaggregation proposed allow for appropriate monitoring and transparency of service quality and performance.*

ACCAN considers that more granular data is preferable as it will support the identification of systemic issues with a certain area or technology that might otherwise be concealed by averaging. Location is an important factor to disaggregate some of the metrics by. Accordingly, we think it appropriate that certain items are disaggregated by Point of Interconnection (POI) area.⁹

ACCAN encourages the ACCC to consider which data could be disaggregated by POI area or below POI area. As data at the POI level may still mask localised performance issues, the ACCC should consider whether data disaggregated below the POI level should be used to identify sections of the network that are underperforming.

ACCAN considers that the metric proposed for time taken to repair service faults for medically vulnerable consumers could also be disaggregated by geographic location given the remoteness of the service impacts the timeframes for PA fault rectification.¹⁰ Disaggregating in this way would allow for analysis of how NBN Co is meeting its PA timeframes.

7. *We are considering bi-annual (June and December) reporting with quarterly data to be provided. Is this reporting frequency suitable for reporting under an RKR for NBN Co?*

ACCAN considers that the proposed reporting frequency is suitable.

⁹ ACCC, 2022, Record Keeping Rule – NBN service performance consultation paper, Attachment A, e.g. Items 1, 2, 4, 6, 7 and 9.

¹⁰ ACCC, 2022, Record Keeping Rule – NBN service performance consultation paper, Attachment A, Item 8.