



# NBN Co Special Access Undertaking

Long Term Revenue Constraint Methodology  
2017-18: Final Determination

and

Price compliance reporting 2017-18

June 2019

## Contents

List of abbreviations and acronyms .....	3
Executive Summary .....	4
1. Introduction .....	5
1.1. Purpose .....	5
1.2. Structure of this report .....	5
2. LTRCM Process.....	6
2.1. Long Term Revenue Constraint Methodology .....	6
2.2. ACCC consideration of the LTRCM .....	6
2.2.1. Assessment of expenditure.....	7
2.2.2. Calculation of LTRCM components.....	7
2.2.3. Price compliance and reporting.....	8
2.3. Consultation process .....	8
3. NBN Co's 2017-18 regulatory information .....	9
3.1. Expenditure compliance.....	9
3.2. Financial information.....	9
3.3. Price compliance reporting.....	10
4. Overview of ACCC's draft determination .....	11
4.1. Expenditure compliance and reporting .....	11
4.1.1. Expenditure compliance.....	11
4.1.2. Procurement compliance .....	11
4.2. Financial information.....	12
4.3. Price compliance .....	12
5. Submissions to the ACCC's draft determination .....	13
5.1. Overview of submissions .....	13
5.2. ACCC comments on submissions.....	14
5.3. LTRCM decision .....	14
6. The ACCC's LTRCM final determination .....	15

## List of abbreviations and acronyms

ABBRR	Annual Building Block Revenue Requirement
ACCC	Australian Competition and Consumer Commission
CFO	Chief Financial Officer
CFRA	Carry Forward Revenue Adjustment
CPI	Consumer Price Index
EGM	Executive General Manager
ICRA	Initial Cost Recovery Account
LTRCM	Long Term Revenue Constraint Methodology
NBN	National Broadband Network
NBN Co	NBN Co Limited
Optus	SingTel Optus Pty Ltd
RAB	Regulatory Asset Base
SAU	Special Access Undertaking
Telstra	Telstra Corporation Limited
WBA	Wholesale Broadband Agreement

## Executive Summary

The ACCC has completed its assessment of NBN Co's Long Term Revenue Constraint Methodology (LTRCM) determination and NBN Co's price compliance for the 2017-18 year. It has determined to accept without modification NBN Co's proposed values for all elements of the LTRCM, including the:

- annual building block revenue requirement (ABBRR)– the amount of revenue NBN Co is allowed to earn in each financial year
- regulatory asset base (RAB) – the net value of NBN Co's regulated assets, and
- initial cost recovery account (ICRA) – an account for accumulating (and rolling forward) NBN Co's initial unrecovered costs.

The ACCC is also satisfied that NBN Co's prices for 2017-18 did not exceed the maximum regulated prices during the relevant period.

The LTRCM methodology is an important component of the framework for regulating access to the National Broadband Network. It operates with other components set out in the Special Access Undertaking to ensure that NBN Co has appropriate incentives to invest prudently and efficiently.

The LTRCM determines NBN Co's annual regulated revenue, regulated asset base and the initial cost recovery account that allows NBN Co to recover unrecovered costs later in the SAU period. The objective of the LTRCM is to provide NBN Co with the opportunity to recover its efficiently incurred costs, including a return on investments, over the term of the SAU.

Over the course of the LTRCM process, including in response to the draft determination, the ACCC received submissions in regard to NBN Co's pricing of bundled products and its entry into the enterprise services market. Although we acknowledge the specific issues raised in the submissions, particularly in relation to greater certainty around bundled products, they related to broader matters currently under consideration by the ACCC and will be considered further in that context.

# 1. Introduction

## 1.1. Purpose

NBN Co's Special Access Undertaking (SAU) specifies the overarching framework for regulating access to the National Broadband Network (NBN) until June 2040.

The SAU establishes the Long Term Revenue Constraint Methodology (LTRCM). The LTRCM is a methodology for determining NBN Co's annual regulated revenue, regulated asset base and the account for accumulating initial unrecovered costs that NBN Co can recover later in the SAU period. The LTRCM process gives NBN Co the opportunity to recover its prudent and efficient costs of supply, including an appropriate return on investment. The LTRCM is one of the various components of the SAU that combine to provide NBN Co with incentives to incur only efficient expenditure and to price reasonably to promote the long-term interests of end users.<sup>1</sup>

The SAU requires NBN Co to submit certain regulatory information to the ACCC each financial year as part of the LTRCM process. NBN Co's submission must include the financial information necessary to determine its allowed revenue.<sup>2</sup> NBN Co must also certify that its prices have not exceeded the maximum regulated prices set in the SAU during the relevant financial year.<sup>3</sup> The ACCC must make an LTRCM determination within 12 months of the end of the relevant financial year.<sup>4</sup>

## 1.2. Structure of this report

This report outlines the ACCC's final LTRCM determination and view on NBN Co's price compliance for the 2017-18 financial year. The structure of this report is as follows:

- Section 2 describes the LTRCM process
- Section 3 provides an overview of the regulatory information submitted by NBN Co
- Section 4 outlines the ACCC's draft LTRCM determination
- Section 5 discussed the submissions to the draft determination and the ACCC's views on these submissions, and
- Section 6 presents the ACCC's final LTRCM determination and assessment of NBN Co's price compliance for 2017-18.

---

<sup>1</sup> ACCC, [NBN Co Special Access Undertaking Final Decision](#), 13 December 2013, pp. 11-12.

<sup>2</sup> Schedule 1F of the SAU.

<sup>3</sup> Schedule 1F.3 of the SAU.

<sup>4</sup> Clause 1E.1.2 of the SAU.

## 2. LTRCM Process

### 2.1. Long Term Revenue Constraint Methodology

The LTRCM is a methodology for determining the revenue NBN Co can earn via its prices over the SAU term. In Module 1 of the SAU (the initial regulatory period), the LTRCM occurs on an *ex-post* basis. In Module 2 (the subsequent regulatory period), it occurs on an *ex-ante* basis.

The ACCC must determine the following values (and the inputs to those values) as part of the LTRCM determination:

- annual building block revenue requirement (ABBRR) – the amount of revenue NBN Co is allowed to earn in each financial year
- regulatory asset base (RAB) – the net value of NBN Co's regulated assets, and
- initial cost recovery account (ICRA) – an account for accumulating (and rolling forward) NBN Co's initial unrecovered costs.

We determine NBN Co's RAB and ABBRR based on specified financial inputs submitted by NBN Co, in accordance with the LTRCM mechanism set out in the SAU.

We use the ABBRR and NBN Co's actual revenue (as defined in the SAU) to calculate the extent of unrecovered costs in each year. The ICRA captures the cumulative value of these unrecovered costs.

Once NBN Co commences earning sufficient revenue each year to meet its annual revenue requirement, the SAU permits NBN Co to recover more than its annual revenue requirement until the ICRA reaches zero (subject to the price controls set out in the SAU).<sup>5</sup>

### 2.2. ACCC consideration of the LTRCM

The ACCC's role in considering the LTRCM is to:

- assess whether NBN Co's capital expenditure and operating expenditure meet the relevant requirements in the SAU for inclusion in the RAB and ABBRR
- assess if the relevant LTRCM components have been calculated in accordance with the formulas set out in the SAU, and
- determine whether the expenditures (as set out in NBN Co's LTRCM proposal) should be included in the LTRCM determination.

The ACCC may determine LTRCM values that are different from the values submitted by NBN Co if those values are determined in accordance with Schedule 1D and Schedule 1E of the SAU.<sup>6</sup> The factors that the ACCC must consider when determining a substitute amount of capital or operating expenditure are set out in the SAU.<sup>7</sup>

---

<sup>5</sup> Clause 1E.6.1 of the SAU

<sup>6</sup> Clause 1E.1.2(c)(iv) of the SAU

<sup>7</sup> See clauses 1D.3.2(d) and 1E8.2(c) of the SAU. For example, a substitute amount of capital expenditure determined by the ACCC must meet the Prudent Design Condition and must be consistent with capital expenditure that has been included in the RAB in respect of any prior financial year, having regard to the relative amounts of capital expenditure incurred in those years, the relative cost of goods and services in those years, any relevant differences in the scale and scope of the relevant assets, the NBN Co Corporate Plan and any other matter the ACCC considers relevant.

## 2.2.1. Assessment of expenditure

The ACCC must determine as part of its LTRCM assessment, whether NBN Co's capital and operating expenditure both meet the relevant requirements in the SAU for inclusion in the RAB and ABBRR.

### *Capital expenditure*

Capital expenditure may only be included in the RAB to the extent the ACCC is satisfied it meets the Prudent Cost Condition,<sup>8</sup> the Prudent Design Condition,<sup>9</sup> or was incurred in connection with the specific matters listed in clause 1D.3.2(a)(ii) of the SAU.

In a broad sense, capital expenditure meets the Prudent Cost Condition if it was incurred in connection with the design, engineering and construction of the relevant assets under a 'conforming contract'<sup>10</sup> (that is, generally, in accordance with NBN Co's procurement rules), or in an open and competitive market, or through another 'value for money' process. The SAU requires that NBN Co's procurement rules contain processes that aim to generate an efficient and competitive outcome and that reflect good industry practice.

Capital expenditure meets the Prudent Design Condition if it is 'materially consistent' with the Network Design Rules<sup>11</sup> or a permitted variation, endorsed network change or ACCC approved network change to the Network Design Rules.<sup>12</sup>

The specific matters listed under 1D.3.2(a)(ii) of the SAU are the Telstra or Optus arrangements, interim satellite or transit arrangements, Tasmanian tri-area service arrangements, trial sites, third party funded network changes; and expenditure incurred prior to the approval of the SAU on 13 December 2013.<sup>13</sup>

### *Operating expenditure*

Operating expenditure may only be included in the ABBRR to the extent that the ACCC is satisfied it meets certain requirements. These include, that it was: incurred in accordance with NBN Co's procurement processes (including in accordance with the procurement rules); incurred pursuant to a 'conforming contract'; procured in an open and competitive market; procured in a manner that is likely to achieve value for money;<sup>14</sup> or it was incurred in connection with the specific matters specified in clause 1E.8.2(a)(ii) of the SAU.<sup>15</sup>

## 2.2.2. Calculation of LTRCM components

The ACCC's assessment of NBN Co's LTRCM submission also includes confirming the inputs and calculations NBN Co has used to determine its proposed values for the LTRCM components. The ACCC must assess whether they have been prepared in accordance with the formulas outlined in the SAU.

---

<sup>8</sup> Clause 1D.3.2(a)(i)(A) of the SAU.

<sup>9</sup> Clause 1D.3.2(a)(i)(B) of the SAU.

<sup>10</sup> Clause 1D.4.1(a)(i)(B) of the SAU contains additional requirements where there is a material change of circumstances affecting the conforming contract.

<sup>11</sup> This document describes the design of NBN Co's network and network components. Capital expenditure must be in accordance with the Network Design Rules in order to be included in the Regulated Asset Base, in addition to meeting the 'Prudent Cost' condition. The Network Design Rules were updated on 30 June 2017.

<sup>12</sup> Clause 1D.6 of the SAU.

<sup>13</sup> Schedule 1D of the SAU.

<sup>14</sup> Clauses 1E.8.2(a)(i) and 1E.8.3 of the SAU.

<sup>15</sup> The specific matters listed under 1E.8.2(a)(ii) of the SAU are: the Telstra or Optus arrangements, interim satellite or transit arrangements, Tasmania tri-area service arrangements, trial sites, and third party funded network changes; expenditure incurred prior to the approval of the SAU on 13 December 2013; and expenditure required to address an urgent network issue or a force majeure event

NBN Co's submission includes an LTRCM spreadsheet, which sets out the underlying calculations of NBN Co's proposed ABBRR, RAB and ICRA values. The ACCC's checks include confirming that NBN Co has correctly extracted capital expenditure, operating expenditure, construction in progress and revenue from the relevant LTRCM schedules before inputting them into these formulas.

The ACCC must also confirm two other LTRCM inputs. These include: the cumulative inflation factor which involves taking the cumulative product of the percentage change in June quarter CPI published for each financial year from the commencement of the SAU, relative to the first financial year;<sup>16</sup> and the rate of return used in LTRCM calculations which is the risk free rate of interest with a 350 basis point risk premium.<sup>17</sup>

The ACCC then confirms the calculation of the ABBRR, RAB and ICRA values using these inputted values in accordance with the formulas contained in the SAU.

### **2.2.3. Price compliance and reporting**

The SAU sets binding caps on the prices NBN Co can charge its customers. These caps take the form of maximum regulated prices for each NBN offer, although we note effective prices can and do differ from maximum regulated prices due to NBN Co's use of discounts. The pricing provisions in the SAU include an annual limit on increases to maximum regulated prices to the change in the Consumer Price Index (CPI) minus 1.5 per cent.<sup>18</sup>

NBN Co must submit a Price Compliance Report to the ACCC by 31 October each year. The report includes certification from NBN Co's Chief Financial Officer (CFO) that the prices charged during the preceding financial year did not exceed the maximum regulated prices set by the SAU.

The ACCC may request information from NBN Co at any time reasonably necessary for the ACCC to determine NBN Co's compliance with Schedule 1C of the SAU.

## **2.3. Consultation process**

Under the SAU, the ACCC is required to undertake a number of steps in making an LTRCM determination.

On 17 December 2018, the ACCC provided its preliminary view to NBN Co that it does not intend to determine a substitute amount of capital expenditure in accordance with clause 1D.3.2(d) or a substitute amount of operating expenditure in accordance with clause 1E.8.2(c) of the SAU. The ACCC's preliminary view is available on the ACCC website.<sup>19</sup>

On 5 April 2019, the ACCC published the 2017-18 LTRCM draft determination. The ACCC's draft determination is available on the ACCC website. The ACCC invited submissions on the draft determination until 10 May 2019. The ACCC received submissions from Telstra and Aussie Broadband, which are discussed further below.

---

<sup>16</sup> Clause 1E.9.4(b) of the SAU.

<sup>17</sup> Clause 1E.7.1 of the SAU.

<sup>18</sup> Schedules 1C.5 and 2B.2 of the SAU.

<sup>19</sup> See: <https://www.accc.gov.au/regulated-infrastructure/communications/national-broadband-network-nbn/nbn-co-special-access-undertaking/ltrcm-2017-18>



### 3. NBN Co's 2017-18 regulatory information

On 31 October 2018, NBN Co submitted an LTRCM proposal to the ACCC for 2017-18 (the regulatory information). NBN Co's regulatory information consists of NBN Co's actual and proposed financial information, an Expenditure Compliance Report, a Procurement Compliance Report, and a Price Compliance Report.

NBN Co has also submitted three independent reports from PricewaterhouseCoopers (PwC), a price compliance spreadsheet, an LTRCM spreadsheet and a copy of its Chart of Accounts. The ACCC has published public versions of NBN Co's regulatory information on the ACCC website.<sup>20</sup>

#### 3.1. Expenditure compliance

NBN Co's regulatory information included an Expenditure Compliance Report for 2017-18, pursuant to clause 1F.2.1(a) of the SAU. This report contains certification from NBN Co's CFO that NBN Co's proposed capital and operating expenditure complies with the relevant expenditure conditions set out in the SAU.

As in previous years, NBN Co engaged PwC to perform an independent limited assurance review in relation to the design of controls applicable to capital and operating expenditure prudence. PwC's report expresses an unqualified opinion and complements the certification from NBN Co's CFO.

In its regulatory information, NBN Co submitted a Procurement Rules Compliance Report in accordance with clause 1F.2.3(a) of the SAU. The report contains a certification from NBN Co's Executive General Manager (EGM) Procurement that NBN Co has developed and maintained Procurement Rules that satisfy the relevant conditions in clause 1D.5.1 of the SAU.

#### 3.2. Financial information

In its regulatory information, NBN Co submitted its actual and proposed financial information for the 2017-17 financial year. This submission consisted of the following six schedules:

- Schedule 6 – Statement of Capital Expenditure, Disposals, Construction in Progress, Asset Lifetimes and Taxation Asset Lifetimes
- Schedule 7 – Statement of Operating Expenditure
- Schedule 8 – Statement of Interest Expense
- Schedule 9 – Statement of Revenue
- Schedule 10 – Statement of LTRCM and RAB items, and
- Schedule 11 – Statement of Material Operating Expenditure, Capital Expenditure and Construction in Progress Variances.

NBN Co also submitted an LTRCM spreadsheet, which sets out the underlying calculations of NBN Co's proposed ABBRR, RAB and ICRA values.

We have summarised the key financial information submitted by NBN Co for the 2017-18 LTRCM determination in Table 3.1 below. The table also shows the corresponding values for the 2016-17 LTRCM determination and the percentage change.

---

<sup>20</sup>See: <https://www.accc.gov.au/regulated-infrastructure/communications/national-broadband-network-nbn/nbn-co-special-access-undertaking/ltrcm-2017-18>

**Table 3.1: Summary of NBN Co's financial information, 2016-17 and 2017-18 (nominal)**

	2016-17 (\$'000)	2017-18 (\$'000)	Percentage change
Operating expenditure	3 726 986	4 322 534	16%
Capital expenditure	6 026 916	6 148 060	2%
Construction in progress (start of period)	3 991 030	3 739 873	-6%
Interest expense	5	69 905	
Revenue	1 001 002	1 978 206	98%
Unrecovered costs	4 056 114	4 558 368	12%
RAB (end of period)	14 369 643	19 379 004	35%
ABBRR	5 057 117	6 536 574	29%
ICRA (end of period)	14 014 956	19 405 530	38%

Source: LTRCM spreadsheet 2017-18

NBN Co also lodged two independent assurance reports from PwC to support its actual and proposed financial information submissions. This includes:

- a reasonable assurance audit report for Schedules 6 to 9: PwC's opinion in this report was unqualified and complements the audit of NBN Co's general purpose financial statements, and
- a factual findings of agreed upon procedures report for Schedule 10: PwC checked that the relevant values for previous years were in accordance with the 2016-17 LTRCM determination, that the relevant input values for 2017-18 were correctly extracted from Schedules 6 to 9 into the LTRCM spreadsheet, and that the relevant LTRCM calculations were undertaken in accordance with the SAU.

### 3.3. Price compliance reporting

In its regulatory information, NBN Co submitted a Price Compliance Report and a price compliance spreadsheet for the period from 1 July 2017 to 30 June 2018.<sup>21</sup>

<sup>21</sup> Pursuant to clause 1F.3(a) of the SAU.

## 4. Overview of ACCC's draft determination

On 5 April 2019, the ACCC published the 2017-18 LTRCM draft determination.

The ACCC's draft determination proposed to accept NBN Co's proposed values (and inputs to the values) for the ABBRR, RAB and ICRA. The draft determination set out the ACCC's detailed assessment of NBN Co's regulatory information, which was submitted under Schedule 1F of the SAU. The ACCC's draft view was that:

- NBN Co had incurred capital and operating expenditure in accordance with the relevant provisions of the SAU
- NBN Co's proposed LTRCM values had been calculated in accordance with Schedules 1D and 1E of the SAU, and
- NBN Co's prices had not exceeded the maximum regulated levels set out in Schedule 1C of the SAU.

This section summarises the ACCC's draft determination.

### 4.1. Expenditure compliance and reporting

#### 4.1.1. Expenditure compliance

The ACCC assessed NBN Co's expenditure compliance by considering the Expenditure Compliance Report signed by NBN Co's CFO, PwC's limited assurance reports and NBN Co's supporting submission. The ACCC's draft decision was that NBN Co's expenditure has complied with the relevant prudency conditions in the SAU.

The Expenditure Compliance Report did not identify any exceptions during the 2017-18 financial year and expresses a negative assurance conclusion.<sup>22</sup> The ACCC also considered NBN Co's other supporting materials to determine the extent that it could rely on the certification.

The ACCC checked that NBN Co's Procurement Guidelines complied with the relevant provisions of the SAU, as well as considering NBN Co's Procurement Rules Compliance Report to determine whether NBN Co had developed appropriate procurement rules.

The ACCC considered PwC's limited assurance report on the design of controls for expenditure compliance to determine whether there are processes and controls in place to support compliance with the prudency conditions in the SAU. The PwC report expresses an unqualified limited assurance conclusion.

The ACCC also considered NBN Co's supporting submission, which outlines its internal audit work, in order to assess whether NBN Co complied with these processes and controls.

#### 4.1.2. Procurement compliance

The ACCC considered that NBN Co had provided a Procurement Rules Compliance Report that meets the requirements of the SAU.

The Procurement Rules Compliance Report did not identify any exceptions for the 2017-18 financial year and expresses a negative assurance conclusion. The ACCC also considered

---

<sup>22</sup> Negative assurance conclusions note that nothing has come to the author's attention that causes them to believe that the requirements have not been met

the material in NBN Co's supporting submission outlining what has informed the EGM Procurement's certification.

Based on this consideration, the ACCC is satisfied with NBN Co's procurement compliance for the purposes of the LTRCM determination.

## 4.2. Financial information

The ACCC considered NBN Co's regulatory information and considered that NBN Co had calculated its proposed values for the RAB, ABBRR and ICRA in accordance with the formulas in Schedules 1D and 1E of the SAU. Therefore, the ACCC's draft decision was to accept NBN Co's proposed values for the RAB, ABBRR and ICRA without amendment.

The ACCC considered NBN Co's actual and proposed financial information in assessing whether NBN Co had calculated its proposed LTRCM values in accordance with Schedules 1D and 1E of the SAU. The ACCC also had regard to NBN Co's LTRCM spreadsheet, which sets out the inputs and calculations used by NBN Co to determine its proposed values for the RAB, ABBRR and ICRA. In making its draft decision, the ACCC reviewed the calculations NBN Co submitted in its LTRCM spreadsheet and confirmed that the formulas used in the spreadsheet were as set out in Schedule 1E of the SAU.

Further, the ACCC considered the independent assurance reports from PwC and the statement of material variances, which support NBN Co's financial reporting.

The declaration provided by NBN Co's CFO and the independent assurance reports from PwC provide the ACCC with assurance that NBN Co's financial information has been prepared in accordance with the relevant provisions of the SAU.

NBN Co's regulatory information included a statement of material variances (Schedule 11), in accordance with clause 1F.1.3(b) of the SAU. The ACCC has reviewed Schedule 11 and is satisfied that it does not raise any significant concerns regarding the magnitude of capital and operating expenditure.

## 4.3. Price compliance

The ACCC considered NBN Co's Price Compliance Report and its supporting submission. The ACCC was satisfied that NBN Co's prices in 2017-18 did not exceed the maximum regulated prices set out in Schedule 1C of the SAU.

The ACCC undertook analysis of the price compliance spreadsheet submitted by NBN Co. We reviewed the prices listed in the spreadsheet and compared them to Schedule 1C of the SAU. We did not find any instances in which the listed prices exceeded the applicable maximum regulated prices.

The ACCC was satisfied that NBN Co's Price Compliance Report and supporting submission provide assurance that NBN Co has key control procedures in place to ensure that the prices for NBN Co's products do not exceed the applicable maximum regulated prices. Our analysis of the price compliance spreadsheet supported this conclusion. Therefore, the ACCC was satisfied that NBN Co has met its price compliance obligations in the SAU.

## 5. Submissions to the ACCC's draft determination

The ACCC received two submissions, one each from Telstra and Aussie Broadband, in response to the draft determination.

### 5.1. Overview of submissions

Telstra indicated that it remains concerned at the pricing flexibility afforded to NBN Co under the SAU and the lack of transparency in regard to its enterprise market activities. Many of the points raised by Telstra reflect the points raised in its submissions earlier in the 2017-18 LTRCM process.<sup>23</sup>

Telstra considers that NBN Co's bundled products should be classified as NBN offers under the SAU and therefore be subject to the SAU's regulatory constraints.<sup>24</sup> It notes NBN Co has classified these bundled offers as discounts instead of NBN offers but considers that NBN Co has no authority to do so. It further indicated that the ACCC has the authority, and if there is uncertainty, must exercise that authority to decide on such classifications given its role in determining NBN Co's adherence to the annual price cap. Telstra further noted the importance of the issue considering NBN Co's use of discounts as their principal pricing tool, the implications for RSPs' ability to plan and invest, and impacts on certainty and pricing for consumers.<sup>25</sup>

Telstra also encouraged the ACCC to employ alternative regulatory methods that may be available to it should the ACCC not be open to finding that bundles are NBN Offers under the SAU.<sup>26</sup>

On NBN Co's entry into the enterprise market, Telstra remains concerned by potential advantages gained by NBN Co from its monopoly position for regulated services. Telstra believes that NBN Co's entry into this market can be good for competition, but only if its prices for enterprise services are not dependent on its unique ability to cross subsidise from other parts of its business. It further noted the importance of the ACCC ensuring it has sufficient information to ensure that infrastructure-based competition in this market is not harmed by NBN Co's conduct.<sup>27</sup>

Telstra argued further in support of a regulatory accounting framework. It considers that the benefits of a regulatory accounting framework would likely exceed any burden, in part because at least some of the required information would be readily accessible. As an alternative, it also suggested that costs and revenues for technology upgrades for enterprise services could be excluded from the LTRCM process.

Conversely, Aussie Broadband indicated its support for NBN Co's entry into the market for enterprise services. It also indicated it does not see cross-subsidisation as a significant issue, noting that cross subsidisation is common in the telecommunications industry and that additional reporting and transparency requirements would result in a more expensive product.<sup>28</sup>

---

<sup>23</sup> See submissions to 2017-18 regulatory information: <https://www.accc.gov.au/regulated-infrastructure/communications/national-broadband-network-nbn/nbn-co-special-access-undertaking/ltrcm-2017-18>

<sup>24</sup> NBN Co's current bundled offers include the high-bandwidth bundles that are targeted primarily at the 50Mbps and 100Mbps services and the entry level bundle based on the 12Mbps product.

<sup>25</sup> Telstra, *Submission to LTRCM 2017-18 Draft Determination*, pp. 2-3.

<sup>26</sup> Telstra, *Submission to LTRCM 2017-18 Draft Determination*, p. 3.

<sup>27</sup> Telstra, *Submission to LTRCM 2017-18 Draft Determination*, pp. 3-4.

<sup>28</sup> Aussie Broadband, *Long Term Revenue Constraint Methodology 2017-18: Draft Determination and Price compliance reporting 2017-18 – submission by Aussie Broadband*, p. 2.

## 5.2. ACCC comments on submissions

The treatment of bundled offers as discounts rather than NBN offers and NBN Co's conduct in the enterprise market, remain issues of ongoing consideration by the ACCC.<sup>29</sup>

The ACCC acknowledges the concerns raised by Telstra and notes that some of these align with concerns raised by the ACCC in the context of NBN Co's SAU variation.<sup>30</sup> We note that the SAU does include specific provisions allowing for the use of discounts from maximum regulated prices. On the other hand, we also acknowledge that bundled offers have emerged as the dominant manner in which NBN Co supplies its services. Further, we recognise that the move from unbundled to bundled offers is a non-trivial exercise with tangible costs involved. In that regard, we consider more certainty around bundled offers, in particular around their composition and prices, would be beneficial.

The ACCC is continuing to monitor NBN Co's product and pricing initiatives, including the potential for further enhancements to bundled offers, and their associated impacts in the retail segment. The ACCC will consider the specific matters raised by Telstra as it continues this process.

NBN Co's entry into the enterprise market is a matter the ACCC is considering closely. The ACCC has not yet formed a view about the need for, or the details of, a detailed regulatory accounting framework for the NBN. Due to the specific nature of the information requirements under the SAU for the regulatory information and LTRCM process, it is likely that if a regulatory accounting framework is considered appropriate, it would be best developed through a separate process.

## 5.3. LTRCM decision

The ACCC notes that the submissions from Telstra and Aussie Broadband did not specifically respond to the ACCC's proposed acceptance of NBN Co's proposed values for the RAB, ABBRR and ICRA for 2017-18. Although we note Telstra's comments on pricing and price compliance, the price compliance component of the LTRCM process relates strictly to compliance with maximum regulated prices and consideration of effective or discount-inclusive prices sits outside this formal process.

Accordingly, the ACCC maintains the views set out in its draft LTRCM determination. The ACCC's final LTRCM determination for 2017-18 is to accept NBN Co's proposed values (and the inputs to those values) for the ABBRR, RAB, and ICRA without modification, in accordance with clause 1E.1.2 of the SAU. Regarding price compliance, the ACCC is satisfied that NBN Co's prices for 2017-18 did not exceed the applicable maximum regulated prices in accordance with Schedule 1C of the SAU.

---

<sup>29</sup> For further discussion see Rod Sims, Speech CommsDay Summit, 'NBN affordability a growing issue', 8 April 2019 - <https://www.accc.gov.au/speech/nbn-affordability-a-growing-issue>.

<sup>30</sup> ACCC, *Update on ACCC assessment of NBN Co's SAU variation*, October 2018.

## 6. The ACCC's LTRCM final determination

The ACCC has determined the values in Table 6.1 for the purposes of the 2017-18 LTRCM Determination. We have derived these values from the regulatory information provided by NBN Co.<sup>31</sup>

The ACCC is also satisfied that NBN Co's prices for 2017-18 did not exceed the maximum regulated prices applicable at the relevant point in time in accordance with schedule 1C of the SAU.

**Table 6.1: 2017-18 LTRCM Final Determination**<sup>32</sup>

Year	2017-18
<b>CPI and Cumulative Inflation Factor</b>	
June Quarter CPI (annual percentage change) – as per Attachment C to the SAU	2.078%
Cumulative Inflation Factor – as per Clauses 1E.9.4(b) and (c)	1.067
<b>Rate of Return – as per Clause 1E.7.1</b>	
Risk free rate of interest – as per Clause 1E.7.1(b) and (c)	2.438%
Nominal rate of return – as per Clause 1E.7.1(a)	5.938%
<b>Regulatory Asset Base (\$'000 REAL) – as per Clause 1D.2.1</b>	
Real RAB (start period) – as per Clause 1D.2.1(a) and (b)	13 746 569
Real capital expenditure	5 761 766
Real disposals	
Real straight line depreciation	1 346 949
Real RAB (end period) – as per Clause 1D.2.1(b)	18 161 385
<b>Regulatory Asset Base (\$'000 NOMINAL) – as per Clause 1D.2.2</b>	
Nominal RAB (start period) – as per Clauses 1D.2.1(a) and 1D.2.2	14 369 643
Nominal straight line depreciation (as per Clause 1E.9.1(b))	1 437 255
Nominal RAB (end period) – as per Clause 1D.2.2	19 379 004
<b>ABBRR (\$'000 NOMINAL) – as per Clause 1E.4.1</b>	
Return on capital	853 268
Nominal regulatory depreciation – as per clause 1E.9.1(c)	1 138 698
Nominal operating expenditure	4 322 534
Net tax allowance	-
Annual construction in progress allowance – as per Clause 1E.10	222 073
<b>ABBRR</b>	<b>6 536 574</b>

<sup>31</sup> In accordance with Clause 1E.1.2(c)(vi) of the SAU.

<sup>32</sup> The clause references in this table refer to the formulas in the SAU.

<b>Taxation calculations (\$'000 NOMINAL) – as per Clause 1E.9.3</b>	
Nominal revenue	1 978 206
<i>Add</i> value of assets received for nil consideration	233 896
<i>Less</i> nominal operating expenditure	4 322 534
<i>Less</i> nominal tax depreciation	1 396 821
<i>Less</i> interest expense	69 905
Taxable profit – as per Clause 1E.9.3	(3 577 158)
Tax loss carried forward (Start period) – as per Clause 1E.9.3	(10 301 051)
Tax loss carried forward (End period) – as per Clause 1E.9.3	(13 878 209)
Net tax allowance – as per Clause 1E.9.3	-
<b>ICRA and CFRA (\$'000 NOMINAL) – as per Clause 1E.5</b>	
ICRA (start period) – as per Clause 1E.5.2	14 014 956
Unrecovered cost – as per Clause 1E.5.1	4 558 368
ICRA (end period) – as per Clause 1E.5.2	19 405 530
Carry forward revenue adjustment – as per Clause 1E.5.3	n/a