



Public version

19 November 2021

Mr Steve Williams and Mr Luis Martinez
Transmission and Facilities Access Infrastructure Division
Australian Competition and Consumer Commission
Email: steve.williams@acc.gov.au; and
luis.martinez@acc.gov.au

Dear Mr Williams and Mr Martinez,

nbn submission to ACCC Audit of Telecommunications Infrastructure Assets – Record Keeping Rule Consultation Paper

Thank you for the opportunity to comment on the Audit of Telecommunications Infrastructure Assets – Record Keeping Rule (**Infrastructure RKR**) Consultation Paper. **nbn**'s detailed responses to questions are set out at [Attachment A](#).

We recognise the intention of the proposed changes to the Infrastructure RKR is to reflect recent developments in the telecommunications market, and to facilitate a more accurate assessment of infrastructure competition across Australia. While **nbn** is broadly supportive or neutral in relation to most of the proposed changes, we are concerned that some proposals (specifically those relating to Customer Access Network changes and changes to how information is presented), will impose an additional cost and resource burden on **nbn** without providing any additional material benefit to the ACCC's assessment of infrastructure competition. In our view, changes such as these which impose new costs on infrastructure providers should be underpinned by a more detailed justification for how the ACCC considers the information will benefit competition.

We have also identified potential technical challenges that **nbn** will face if certain changes are formalised. In these cases, we have suggested alternative solutions as a cost-effective compromise to the ACCC's proposals.

Finally, we expect that the ACCC would, at a minimum, provide Record Keepers with at least six to nine months to implement any changes required by amendments to the Infrastructure RKR, particularly given that the date of record for the next report is 31 January 2022. This will provide Record Keepers with enough time to make the required IT changes.

We are happy to discuss any of the points raised in our submission and should the ACCC have any concerns with **nbn**'s record-keeping methodology more generally, we are always prepared to discuss those concerns. If you have any questions, please contact Greg Kiossev at gregkiossev@nbnco.com.au.



Sincerely,

A handwritten signature in black ink, appearing to read 'Jane van Beelen', is positioned below the word 'Sincerely,'.

Jane van Beelen

Chief Legal & Regulatory Officer



Attachment A – Responses to Consultation Paper questions

1. *Is it appropriate to include Aussie Broadband, DGtek, FibreconX, Leading Edge and Springfield City Group in the list of record-keepers set out in Part 1 to Schedule 1 to the Rules*

In principle, obligations under the Infrastructure RKR should apply consistently to entities that own or operate significant telecommunications infrastructure in Australia. On that basis, it appears appropriate to include the nominated entities in the list of record-keepers.

2. *Are there other providers that should be included in the list of record-keepers? Are there any record-keepers that should be removed from the list at Schedule 1?*

nbn is not aware of any other providers/entities that should be included in or removed from the list at Schedule 1, however, as noted in response to question 3, **nbn** does support the inclusion of satellite service providers in the list of record-keepers as this aligns with the principle of ensuring regulatory obligations are applied consistently across the market or individual market segments. In line with this principle, and as noted in our response to question 4, we also consider that where additional reporting obligations are placed on **nbn**'s fixed wireless network (e.g. the provision of CPE locations), the same reporting should be provided by all fixed wireless network providers, whether they be in regional, remote or urban geographies.

3. *Should satellite service providers be included in the list of record-keepers? If so, which providers should be included?*

nbn has voluntarily provided the ACCC with information in respect of its satellite network in Infrastructure RKR lodgements since 2017.

Noting the number of new entrants in the satellite market in recent years, the statutory obligations that apply to satellite broadband providers, and the likelihood of increased competition and new entrants in this market segment, it is appropriate that satellite service providers are included in the list of record-keepers.

4. *Should relevant record-keepers be required to provide information on the location of the end-user's end of the CAN? Are the proposed amendments to the RKR appropriate to achieve this?*

nbn does not support providing additional information with respect to its fixed line networks, but recognises there is a case for providing additional end user information in relation to fixed wireless and satellite networks.

Treatment of fixed line services

nbn currently provides the ACCC with highly detailed information in relation to the location and types of infrastructure assets that it owns and operates. This is particularly true of **nbn**'s fixed line access technologies, where **nbn** provides a view of infrastructure deep into its network. The level of granularity is reflected by the network element at which **nbn**'s reporting ends, and the number of end user connections that this network element supports:



- **FTTP:** Multiport – 4, 6, 8 or 12 end users,
- **FTTN:** Copper joint – Approximately 3 end users on average,
- **FTTB:** Dependent on the number of units within a multi-dwelling building (MDU), however each premises in an MDU is provisioned for at the MDF,
- **FTTC:** Distribution Point Unit (DPU) – 4 to 6 end users, and
- **HFC:** Traffic Access Point (TAP) – 4, 6 or 12 end users.

This level of information is arguably sufficient for determining whether there is fixed line telecommunications infrastructure owned and/or operated by **nbn** within an area. While **nbn** does not have access to the information that other record-keepers provide to the ACCC, it is unclear how providing end-user CAN information would provide any additional benefit to the ACCC in identifying the “level of competition” in an area, or why such a granular view of infrastructure competition within households is necessary from a regulatory standpoint. Information on the existence and nature of fixed line infrastructure in each street, down to the level of the final distribution point should be sufficient for the ACCC to assess the level of competition between networks. The additional reporting information suggested by the ACCC would significantly increase the size and complexity of the reports provided by **nbn** to them, for little apparent benefit.

In the case of fixed line services, it is also unclear how providing this additional information would help the ACCC ascertain where connectivity is poor, or where technology options are limited. Within the **nbn** fixed line footprint, which is identifiable via the current reporting methodology, **nbn** is required to supply services on request of an access seeker with minimum speed requirements and connection timeframes as set out in our Wholesale Broadband Agreement. **nbn** is also aware that the Department of Infrastructure, Transport, Regional Development and Communications is considering introducing a Statutory Infrastructure Provider (SIP) Standards, Rules and Benchmarks instrument which would also outline connection timeframe requirements for all SIPs.

Importantly, provisioning our IT systems to provide the additional end user CAN information would have a material cost impact on **nbn**. This is because the change would require the inclusion of the final fibre, copper, or HFC drop cable, and the associated Network Termination Device (NTD). As the drop cable and NTD element is recorded differently depending on access technology, we will be required to make IT changes to ensure the information is presented in a format suitable to the ACCC.

The proposed change would also result in a significant increase in the amount of data that is generated and reflected in **nbn**'s infrastructure records. We estimate that it would at least double the size of the current report. This increased data requirement also increases the risk of errors arising in the material that **nbn** provides the ACCC because of the complexity of adding all end user drop cable and NTD equipment details.

Treatment of fixed wireless and satellite services

nbn is more open to providing information in respect of fixed wireless and satellite networks. We recognise that fixed wireless and satellite coverage maps may not provide the best indication of the end point of these services in all cases, particularly given the challenges presented by terrain, and may result in challenges in identifying where infrastructure competition exists.

For our Fixed Wireless and Satellite locations, we are capable of supplying coordinates for the NTD location, however, the spatial positioning of the location will not necessarily be the exact location of the building or



land parcel where the NTD is. This is because in **nbn**'s systems, the default position is the centroid of the land parcel, therefore the larger the block, the further out of position the NTD may appear. If the ACCC was to seek the exact location of the NTD in a land parcel, this would require **nbn** to undertake field visits to each site and manually capture coordinates. This would be a severely cost prohibitive exercise so **nbn** would need confirmation as to the ACCC's expectations regarding locational accuracy of end user CAN information. We recommend that the ACCC amend the draft Record Keeping Rule to reflect this limitation. Without such a change, **nbn** could not support the proposed amendment to the RKR.

We note that any obligation on **nbn** to supply end user CAN information in relation to its Fixed Wireless and Satellite networks must also apply to all other access seekers that provide fixed wireless and satellite services, whether located in regional, remote or urban areas. This would provide the ACCC with a more detailed insight into competition between fixed line and fixed wireless services across Australia.

5. Do you have any comments on the requirement for relevant record keepers to provide a single coverage map for each mobile technology in operation?

Not applicable to **nbn** however we note our response to question 9 may be considered broadly relevant to this question should the ACCC have a view that consistency in mapping approaches across different access technologies is appropriate.

6. Do you have any comments on the requirement for relevant record-keepers to report both outdoor and external-antenna mobile coverage? Are the definitions of outdoor coverage and external-antenna coverage in the draft Rules at Attachment A correct?

Not applicable to **nbn**.

7. Should record-keepers be required to report on the assumptions they use to calculate coverage for mobile networks? If not, why not?

Not applicable to **nbn**.

8. Do you have any comments on the requirement for relevant record-keepers to report the type of cell operating at each mobile site? Is the cell-type classification proposed in the draft adequate?

Not applicable to **nbn**.

9. Should record-keepers be required to provide one individual file representing the national geographic extent of their networks? Are the proposed amendments to the RKR appropriate to achieve this?

While we recognise the current SAM based mapping output may not provide a conveniently integrated view of **nbn**'s infrastructure when looked at as individual files by the ACCC, the proposed rule change to require **nbn** to provide one individual mapping file would create significant challenges for no material benefit.



In order to produce a single, national map, **nbn** would need to invest in upgrades to its IT systems to handle the proposed new files. This is because the new files will be considerably larger and more detailed than anything **nbn** has been required to produce in the past, and require substantially more processing power than **nbn** currently has at its disposal. Importantly, there would be limited additional benefit to **nbn** arising from this investment, as the upgrades would be solely for the purpose of having a single mapping capability that would only be used for this specific annual ACCC report.

As a compromise, **nbn** could provide the ACCC with maps that are aggregated at the State and Territory level. This would still require changes to **nbn**'s processes and our IT systems, but this is likely to be more manageable. To that end, we would be more supportive of a change to Rule 7(1)(d) that allows record-keepers to provide information on the geographic extent of a CAN and a core network at a state and territory level, rather than at a national level.

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Finally, any changes to this reporting requirement would take a number of months for **nbn** to implement. We would first need to secure approval to access funding for the changes through **nbn**'s internal governance processes, and then build the IT capability to produce either a single map, or as would be preferable, maps aggregated at the state and territory level. We would then need to complete all necessary testing and integration work to ensure the quality of the data produced by the new reporting.

10. Are the proposed amendments to Rule 7 adequate to ensure a comprehensive interpretation of maps provided under the Rules?

As noted in response to question 9, **nbn** does not support the current drafting of the proposed change to Rule 7(1)(d).

nbn is comfortable with the proposed change to Rule 7(2) on the basis that we understand the information that we provide is acceptable and meets the standard expected by the ACCC. If the ACCC expects more detailed information with respect to network elements and symbol types provided by **nbn**, the better approach may be for the ACCC to discuss its concerns with **nbn** directly so that we have a shared understanding what additional information would need to be provided.

11. Are the proposed amendments to rule 8 adequate to ensure that changes in methodology are not misinterpreted by the ACCC?

The proposed changes to rule 8 are appropriate for requiring record-keepers to identify any material changes in the assumptions or methodology in how the report is produced.

As a general comment, if the ACCC has any concerns with **nbn**'s methodology, we are always prepared to discuss our approach with the ACCC and respond to any questions or concerns it has.