

Wednesday, 4 May 2016

Ms Nicole Ross
Director
Australian Competition & Consumer Commission
Level 35, 360 Elizabeth Street
Melbourne, VIC 3000

SUBJECT: ACCC superfast broadband access declaration inquiry

Dear Ms Ross,

Further to your SBAS inquiry I submit the following points for consideration:

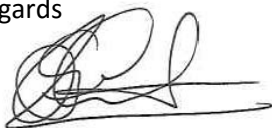
- It shall be in the long-term interest of the business, charity and government end users in non-CBD areas that superfast carriage services by innovative providers are facilitated as early as possible. Spirit fails to see why superfast services, outside of the CBD areas become the domain of larger carriers. It would be difficult to ascertain how that may be in the Long term Interest of the End User.
- In almost all such sites where Spirit could establish its services, major carriers are already capable but have elected to not provide despite their input cost advantages and, in doing so, can restrict the capability of smaller providers to venture wholesale supported supply. The innovative providers ought to be facilitated to take risk to establish superfast carriage supply in such sites as early as possible. All carriers of scale have greater capacity to take such risks. Retaining the exemption across the board allows smaller providers a better opportunity to reach out to and supply the end users at such sites free from access provision, even if for a honeymoon period. It is not uncommon for smaller providers to concentrate in provincial areas, often outside of the CBD areas. Again, we fail to see the reasoning behind such a limitation.
- Spirit's configuration at such sites does not in any way impair or lessen the ability of competing providers to establish their preferred technology and carriage service configuration.

The SBAS focused on the Long Term Interest of the End user (LTIE) and the determination of whether the service is considered a 'bottleneck technology'. Spirit has illustrated that its business model is in the LTIE and not a Bottleneck technology. The changes proposed as part of the *outcome of consultation on the draft decision-revisions to the service description* fail to recognise these factors and seem to placate the larger players. As the industry morphs into an oligopoly of 4 majors – not dissimilar to that of the banking industry – the speed and innovation of smaller players are threatened to be regulated out of the market, notwithstanding the relatively minor market share that they occupy.

I trust that you will give appropriate consideration to these views and look forward to receiving your feedback.

Please do not hesitate to contact me with any questions or points of clarification.

Regards



Geoff Neate
Managing Director