

31 March 2016

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Dear Nicole

Re: ACCC superfast broadband access service declaration inquiry

I refer to your email dated 21 March 2016 seeking submissions on a revised draft service description for the superfast broadband access service (**SBAS**). The ACCC specifically requested submissions on whether there are errors in the final wording of the service description and suggestions of additional postcodes to implement the CBD exemption, with supporting rationale for effective competition in suggested areas.

Revised service description

The service description proposed by the ACCC has been amended as follows:

- Clarifying the definition of a superfast broadband access services;
- Limiting the exemption for services supplied to business, charity and public body end-users to those supplied in CBD areas; and
- Making minor changes to definitions and references to definitions in other legislation.

Telstra comments on the proposed changes are set out below.

Definition of a superfast broadband access service

The definition of a SBAS has been amended to specifically include a Fibre Access Broadband (**FAB**) service. Telstra understands that the intent of this is to capture the service provided in Telstra's FTTP networks in South Brisbane and Velocity estates. As included in the proposed service description, Telstra considers that the definition is appropriate and consistent with the FAB service supplied by Telstra in South Brisbane and Velocity estates.

However, Telstra notes that the ACCC's email states that the amendment made to the service description has been made to "...the definition of a *Layer 2 bitstream service* so that it applies to all superfast broadband access services...Telstra has already put in place the systems to supply a wholesale Layer 2 service which would be necessary to provide a SBAS." As set out in previous submissions, Telstra does not consider that the FAB service is a wholesale Layer 2 service although it does include elements of such a service. Nevertheless, the amendment made to the service description states that a SBAS is a *Layer 2 bitstream service* **or** a *Fibre Access Broadband Service*. This reflects Telstra's view and appears to require that no changes be made to the FAB service as currently provided in South Brisbane and Velocity

estates. As set out in previous submissions, any requirement to provide a (commonly acknowledged) Layer 2 wholesale service in those areas would result in costs that would far outweigh the benefits of any declaration. This includes any requirement to “remove” the underlying PSTN service in order to provide FAB on a “naked” basis. For the avoidance of doubt, the ACCC should clarify this position in its Final Decision.

Exemption from declaration

The service description has been amended to exclude services supplied to business customers, public bodies or charity customers in a central business district (**CBD**) area (with reference to postcodes to define CBD areas). Telstra has previously set out its views on the application of exemptions from the service description.¹ However, in terms of the revised service description, Telstra considers the exemption for business, public body and charity customers should be amended to be consistent with the *Carrier Licence Conditions (Networks supplying Superfast Carriage Services to Residential Customers) Declaration 2014* which includes the phrase “wholly or principally” for the supply of services. This is necessary to avoid the inadvertent capture of very minor ancillary edge case scenarios where a handful of residential customers may sit on a corporate network or where, for example, a custodian lives on site (and whose presence would therefore remove the exemption based on the current service description which requires that “all” end-users are business etc customers).

Other changes to definitions

Among other amendments, the ACCC has proposed changes to the definition of *multi-dwelling unit* to *multi-dwelling complex*. This amendment would make sense if a *complex* could include a cluster of buildings (such as a campus environment) served by a single access multiplexer. However, the ACCC has removed the reference to “buildings” resulting in a *complex* being a singular building. This seems illogical and Telstra considers that either the plural *buildings* should be reinstated to capture a complex that may include more than one building, or the original *unit* terminology be reinstated with the singular *building* reference.

Telstra has no comments on other amendments made by the ACCC nor on the suggested use of postcodes to define CBD areas.

Telstra would be happy to discuss any of the matters raised in this letter with you and your team. Should you have further questions please contact Justine Bond on (02) 9866 0269, or at Justine.Bond@team.telstra.com

Regards

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¹ Telstra Corporation Limited, Response to Commission’s Superfast Broadband Access Service Declaration Inquiry – Draft Decision, 4 December 2015.