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To whom it may concern

### Consultation on SBAS regulated price terms

This letter sets out Telstra's views in response to the ACCC letter received on 2 November 2023 asking for feedback on:

- The ACCC proposal to benchmark regulated maximum prices for the Superfast Broadband Access Service (SBAS) in the final access determination (FAD) to NBN Co's new pricing approach; and
- Proposed regulated access terms for certain Network-to-Network (NNI) charges.

We also set out views on the treatment of the Fibre Access Broadband (FAB) service.

#### Regulated SBAS and price terms

The ACCC draft decision was to continue to benchmark regulated access terms for the SBAS against NBN prices for equivalent residential broadband services. The ACCC letter set out a position to retain the NBN benchmarking approach but give SBAS access providers two options:

1. NBN Co's 'floor and ceiling' pricing approach as recently accepted and set out in the SAU variation.
2. An SBAS total monthly charge that does not exceed NBN Co's Average Combined Charge for equivalent residential grade services.

Access prices for the SBAS will be regulated at the 25/5 Mbps and 50/20 Mbps speed tiers.

Telstra has previously set out our support for maintaining the current approach to pricing the regulated SBAS. Benchmarking to the NBN ensures access seekers are not paying more for equivalent services, to the benefit of competition and consumers. It also ensures access seekers are able to provide equivalent plans no matter the underlying wholesale provider. This is important for consumers, who should not face higher costs for broadband simply because they are supplied over a different network (something the consumer has no control over). This position also applies to the options set out in the ACCC letter. We consider giving access providers flexibility in how they apply the benchmarked price is appropriate and may avoid the imposition of additional costs from a more prescriptive approach.

That said, we do consider there is a role for the ACCC in ensuring wholesale providers maintain broad equivalence with NBN pricing. Telstra would be concerned if in implementing a different price structure to NBN Co the resulting price outcomes were substantially different, either immediately or over time. For example, a wholesale provider may set price points based upon its own observed usage on its network and, if that usage differs from that on the NBN network, the resulting price points would be different. Where it observes different pricing outcomes, Telstra considers the ACCC should ask wholesalers to substantiate those differences.



## **NNI charges**

The ACCC is proposing to regulate setup and monthly recurring charges levied by SBAS providers for 1G and 10G NNIs on the basis that these are of most relevance to smaller retail providers competing to build market share. As with other price terms, the proposal is to benchmark NNI charges against NBN Co's equivalent charges published in its annual Tariff List.

Telstra believes it is appropriate that these charges are equivalent between NBN and non-NBN access providers. As such, we support the ACCC proposal to benchmark to NBN Co's equivalent charges. However, we believe such benchmarking should extend to all NNIs, i.e., the ACCC should also benchmark 100G NNIs. As discussed below, different wholesale providers have different network architectures – fewer POIs means that a single NNI can support a higher number of services, which would likely increase demand for larger NNIs, including 100G. It would be an odd outcome for only some price points to be benchmarked against the NBN equivalent when larger NNIs will be of relevance for certain networks. The simplest solution is to benchmark all NNI price points.

Telstra does not agree with the characterisation in the ACCC letter of Uniti's state-based aggregation charge as being relevant to the NNI charges. Instead, we believe that Uniti's state-based aggregation charge arises due to Uniti's different network architecture – instead of 121 POIs (the NBN model), Uniti has 5 POIs. Uniti's state-based aggregation charge is aimed at the cost of aggregation back to its state-based POIs, not the cost of NNIs at those POIs. In support of this view, Telstra refers the ACCC to NBN Co's Enterprise Ethernet product – when acquiring this product, RSPs can choose to take up a state-based aggregation service. The NBN Enterprise Ethernet Price List<sup>1</sup> shows a separate charge for state-aggregation, but crucially the NNI charges are the same no matter whether the RSP chooses that option or not.

In light of the above, Telstra reiterates that it is appropriate for the ACCC to benchmark NNI charges levied by SBAS providers against those levied by NBN Co. However, it would be inappropriate for the ACCC to force exactly the same charging structure upon SBAS providers where their networks are different to NBN Co's.

## **Other ancillary charges**

Telstra notes that in its March 2023 draft instrument the ACCC also proposed regulating other non-recurring charges such as those for installation and service transfer. Telstra supports the regulation of such charges because setting such charges too high could be a barrier to competition. As with other charges, Telstra considers it appropriate that these charges be benchmarked against the equivalent NBN Co charge as per the ACCC proposal.

## **Treatment of FAB service**

For the avoidance of doubt, Telstra reiterates our position that the price and non-price terms of the FAD that relate to FAB endure until the earlier of completion of transition to Uniti or the end of the FAD. The transition program is progressing well with [c-i-c] [c-i-c] and Telstra and Uniti are continuing to target 31 March 2024 as the date for completion of all transitions. It would impose a disproportionate regulatory burden if any changes were made to the regulation of FAB given the expected timeframe for services to be transitioned to Uniti (after which time they will be subject to the standard SBAS price and non-price terms).

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<sup>1</sup> <https://www.nbnco.com.au/content/dam/nbn/documents/sell/wba/2022/sfaa-wba-nbn-enterprise-ethernet-price-list-20221101.pdf.coredownload.pdf>



If you have any questions in relation to the above, please contact me at [Justine.bond@team.telstra.com](mailto:Justine.bond@team.telstra.com).

Kind regards

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