

29 March 2019

Australian Competition and Consumer Commission

DarkFibreAggregationServices@acc.gov.au



Re: Dark Fibre and NBN Wholesale Aggregation – Proposed Record Keeping Rules, Consultation Paper

The Australian Communications Consumer Action Network (ACCAN) welcomes the opportunity to provide feedback to the Australian Competition and Consumer Commission (ACCC) on the Dark Fibre and NBN Wholesale Aggregation Proposed Record Keeping Rules (RKR) Consultation Paper. ACCAN is Australia's peak communications consumer organisation representing individuals, small businesses and not-for-profit groups as consumers of communications products and services.

ACCAN has reviewed the proposed RKR and supports the ACCC collecting the identified information. The ACCC's market study highlighted the potential importance of dark fibre and NBN wholesale aggregation services to facilitate downstream competition. However, without sufficient information to monitor these markets, the ACCC is unable to determine if the market is functioning effectively or if regulatory intervention is necessary to promote the long term interests of consumers.

We recognise that collecting information imposes costs on businesses. However, the potential cost of ineffective wholesale (upstream) markets is that consumers in retail (downstream) markets have less choice and potentially pay higher prices. A key objective of the NBN project is that it is designed as a "vehicle for market reform" which will enable "a more competitive market for retail broadband and telephony services."¹ ACCAN considers it a short term cost that is necessary to determine if the market is functioning appropriately.

The ACCC has proposed to collect information up to 30 June 2021, with a review of ongoing information needs leading up to this date. ACCAN considers that this time period is appropriate and provides reasonable certainty to affected parties that any regulatory burden will be short term and continued monitoring will be assessed prior to 30 June 2021. Should the ACCC determine that the market is functioning effectively, no further information collection is necessary. If the ACCC determines that continued monitoring is required, it is likely that the potential benefit to consumers of regulatory intervention will outweigh any regulatory burden on affected parties.

Please do not hesitate to get in touch with us on the details below if you wish to discuss further.

Regards

Tara D'Souza

Senior Policy Advisor

tara.d@accan.org.au or 02 9288 4000

¹ Shareholder Ministers of NBN Co Ltd, Statement of Expectations, 24 August 2016.