
Submission

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**Re: NBN Special Access Undertaking variation: Response to ACCC Draft Decision; Floor and Ceiling
– Modified Pricing Options**

The Australian Communications Consumer Action Network (**ACCAN**) thanks the Australian Competition and Consumer Commission (**ACCC**) for the opportunity to provide further comment on the NBN Special Access Undertaking variation: Response to the ACCC Draft Decision, Floor and Ceiling - Modified Pricing Options (**pricing options paper**).

ACCAN is the peak body that represents consumers on communications issues including telecommunications, broadband, and emerging new services. ACCAN provides a strong unified voice to industry and government as we work towards communications services that are trusted, inclusive and available for all.

ACCAN welcomes the opportunity to provide comment on the pricing options paper. Notwithstanding our reservations concerning the introduction of pricing floors, ACCAN would like to express our qualified support for the proposed pricing framework. We note that:

- The pricing framework should be accepted insofar as it promotes the objectives of pricing certainty, retail competition and is consistent with the long-term interests of end-users; and
- Option 3 is the preferable pricing option in ACCAN's view.

The proposed 'floor and ceiling' pricing framework represents a second-best framework for the pricing of NBN services. However, notwithstanding that the framework does not reflect the ideal theoretical pricing framework, in substance the proposal sets out a reasonable approach to the pricing of NBN services and provides for reasonable pricing outcomes for consumers.

Further detailed comments on the proposal are set out in **Attachment A**. We thank the ACCC for the opportunity to comment on the draft decision. Should you wish to discuss any of the issues raised in this submission further, please do not hesitate to contact me at gareth.downing@accan.org.au.

Yours sincerely,

Dr Gareth Downing
Deputy Chief Executive Officer

Attachment A. Further detailed comments on the pricing proposal

The proposed ‘floor and ceiling’ pricing construct is a second-best framework

As noted in ACCAN’s previous submission the movement to a formal framework of pricing floors is not consistent with the theoretically efficient pricing of NBN services.¹ However, notwithstanding our objection to the adoption of formal pricing floors, existing pricing arrangements in effect establish de facto pricing floors.

While the formalisation of pricing floors is undesirable in our view, the substantive impact on consumers from transitioning to formal price floors is likely to be limited. Further, we note that although the departure from theoretically efficient pricing frameworks is undesirable, it is common across a broad range of utility contexts due to competing objectives and information constraints. Accordingly, while ACCAN has reservations regarding the proposed formalisation of pricing floors as part of the pricing framework, the tangible pricing outcomes delivered are of greater importance to consumers.

However the proposed pricing framework sets out a reasonable approach to pricing NBN services

The proposed pricing framework is imperfect. However, it represents a tangible improvement on previous pricing frameworks and provides a reasonable approach to pricing NBN services. Pricing frameworks should strive to be theoretically efficient, but where they reasonably approximate efficient prices based on available information, the negative efficiency effects may be outweighed by expected benefits.²

Accordingly ACCAN would like to express our qualified support for the proposal, which in our view:

- Adequately achieves pricing certainty for retail service providers (RSPs);
- Effectively addresses the potential for inefficient and inequitable cross-subsidies between high and low use consumers;
- Promotes downstream retail competition; and
- Discourages inefficient investment in technical systems to optimise plan migrations to reduce wholesale costs.

ACCAN supports the acceptance of the pricing framework and proposed pricing to the extent that the ACCC can confirm the reasonableness or accuracy of the underlying pricing assumptions.

Retail competition must be facilitated through NBN pricing

ACCAN does not support the implementation of pricing frameworks that would provide competitive advantages to incumbent participants due to their scale or existing market share. Throughout our engagement with RSPs on pricing, ACCAN has consistently been advised by smaller providers that the system requirements associated with more complex pricing frameworks are cost prohibitive.

¹ ACCAN, 2023, *ACCAN submission on further materials regarding the ACCC NBN Special Access Undertaking (SAU) draft decision*, <https://accan.org.au/accans-work/submissions/2152-nbn-sau-draft-decision>.

² For example, as noted by NBN Co more precise and complex pricing constructs may be theoretically more efficient, but impose material transaction costs due to the information and technical requirements to apply these pricing constructs.

Accordingly, ACCAN considers that to the extent the proposed pricing framework removes the need for, or incentive to invest in technical systems to optimise plan management, that this is desirable. The pricing framework proposed by NBN Co is in ACCAN's view preferable to alternative frameworks which may promote unnecessary and inefficient investment in technical systems that may provide little or no benefits to consumers and impose increased retail costs.

The preferable pricing construct is Option 3

The pricing options paper sets out three options for the pricing of NBN services. These options reflect revisions from the previous pricing paper and can be described as:

- A reduction in the floor price of the 50 Mbps service;
- A reduction in Connectivity Virtual Circuit (CVC) overage charges; and
- Or a combination of a reduction in the floor price of the 50 Mbps services and CVC overage charges.

ACCAN notes that the proposed pricing options are revenue neutral, insofar that the selection of a particular pricing option does not imply an increase or reduction in NBN Co revenue. Noting that this is the case, ACCAN considers that pricing option 3 is preferable insofar that it provides for a reasonable sharing of proposed price reductions across the 12/1Mbps, 25/5Mbps and 50/20Mbps speed tiers.

Demand management should be examined by NBN Co and RSPs

ACCAN notes that the pricing options paper does not set out opportunities to engage in demand management. At various points throughout our engagement on the SAU, it has been repeatedly raised with ACCAN that a significant driver of the cost pressures faced by RSPs is exceptionally high use consumers who are utilising 50Mbps services at a level well in excess of ordinary or reasonable usage.

While ACCAN is supportive of consumers making the greatest possible use of their available connectivity, we consider that there are material equity and efficiency issues associated with current arrangements. While restricting exceptionally high use consumers should not be the option of first resort, where a consumer utilises a service at rates that are several standard deviations away from ordinary patterns of use, consideration should be given to how these consumers might be encouraged to migrate to service tiers that better align with their profile of use.

The nuanced application of demand management tools may provide for the efficient management of existing and future NBN capacity and may limit inefficient or imprudent investment to meet the demands of a small cohort of users. In the first instance, ACCAN considers that notification of exceptionally high use consumers concerning their relative usage and the suitability of their existing service would be appropriate. Further information or notifications may be appropriate where migration to another service tier may allow them to take up a service that better reflects their needs.