

Dear stakeholder

We are emailing you as the contact person for [stakeholder's] submission to the Australian Competition and Consumer Commission's draft decision to declare a superfast broadband access service (SBAS) under section 152AL(3) of the *Competition and Consumer Act 2010* (the CCA). Submissions closed on 4 December 2015. The ACCC has now completed its review of all submissions received.

*Outcome of consultation on the draft decision - revisions to the service description*

The ACCC is returning to submitters with a revised draft service description, which will implement the approach set out in the draft decision with changes following consultation:

- clarifying the application of the definition of a *Layer 2 bitstream service* so that it applies to all superfast broadband access services.
- limiting the exemption for services supplied to business, charity and public body end-users to those being supplied in CBD areas (with reference to Australia Post's list of CBD area postcodes for the Express Post network as per table P3.8.1 the [Domestic Parcel Guide – January 2015](#))
- changing the term used for *user network interface* to *end user interface* (without changing meaning) so that the term is more consistent with other regulatory and industry practices
- for a few definitions, changing the reference to definitions in other legislation so that the reference is to the primary definition (for example, the *NBN corporation* definition now points to the *National Broadband Network Companies Act 2011* not the CCA, which refers to that Act)

The draft service description also includes minor amendments which do not substantially vary from the draft decision. All changes are set out in the attached service description, in blue.

*Submissions sought*

The ACCC is seeking submissions on whether there are errors in final wording of the service description so as to implement the draft decision post-consultation. Also, submitters are invited to suggest additional postcodes to supplement the CBD exemption, with any supporting rationale for effective competition in these areas.

We are not seeking further submissions about the regulatory intention for an SBAS declaration (including exemptions from the standard access obligations), as these were sufficiently canvassed in the draft decision and subsequent submissions. Submissions can be provided in a simple email or letter format by **lunchtime Wednesday 30 March** and should be addressed to me (cc-ing [superfastbroadbandinquiry@acc.gov.au](mailto:superfastbroadbandinquiry@acc.gov.au)). During the consultation period we are available to respond to any queries you may have.

Regards

Nicole King

Acting Director | Market Evolution & Access | Water and Wireline Markets Branch

## Proposed SBAS service description – for consultation

The superfast broadband access service is a point to point service for the carriage of communications in digital form between a **network-network interface** and an **end-user interface-user-network interface** that is:

- (a) a **Layer 2 bitstream service** or a **Fibre Access Broadband service**; and
- (b) a **superfast carriage service**.

This declaration does not apply to:

- (a) a service supplied through an **access multiplexer** located in a **multi-dwelling unit-complex** in a **central business district area** or a **in node in a central business district area** where all end-users of the services supplied or proposed to be supplied through that access multiplexer and any other access multiplexers owned or controlled by the same access provider located in the same **multi-dwelling unit-complex** or **node** are **business customers, public bodies** or **charity customers**;
- (b) a service supplied other than through an access multiplexer located in a **multi-dwelling unit-complex** or a **in node** where **the premises of the end-users of the service is in a central business district area** and all end-users of the service are ~~the service is used, or proposed to be used, to supply carriage services wholly to~~ **business customers, public bodies** or **charity customers**;
- (c) services supplied, or capable of being supplied, by an **NBN corporation**;
- (d) services supplied, or capable of being supplied, using a hybrid-fibre coaxial cable network that was in existence on **[date of declaration]** 2016 and in respect of which there are agreements for the network to be transferred to NBN ~~corporation-Gc~~;
- (e) the local bitstream access service defined in the Local Bitstream Access Service Declaration 2011; or
- (f) the domestic transmission capacity service defined in the Domestic Transmission Capacity Service Declaration 2014.

### Definitions

Unless otherwise defined in this declaration, ~~Where~~ words or phrases ~~used in this declaration are~~ defined in the *Competition and Consumer Act 2010* or the *Telecommunications Act 1997*, ~~they~~ have the same meaning in this declaration. ~~given in the relevant Act.~~

**access line** means the line used to connect the access multiplexer to the **end-user interface**. ~~User-Network Interface.~~

**access multiplexer** means a device that separates communications carried by means of guided **electronic electromagnetic** energy to enable an end-user to make use of high data rate services.

**business customer** means a customer that:

- (a) carries on a business or enterprise from a premises, regardless of whether there is any incidental use of the premises for occupation (from time to time) as a place of residence; and

(b) has an ABN for the business or enterprise.

**central business district area** means a geographic area with one of the following postcodes:

- (a) Canberra CBD: 2600-2601
- (b) Sydney CBD: 1000-1299; 2000-2009
- (c) Melbourne CBD: 3000-3010; 8000-8010
- (d) Brisbane CBD: 4000-4004
- (e) Adelaide CBD: 5000-5005; 5800-5879
- (f) Hobart CBD: 7000-7003; or
- (g) Perth CBD: 6000-6005; 6800-6899.

**charity customer** means a charity registered with the Australian Charities and Not-for-profits Commission.

**Fibre Access Broadband service** means a carriage service that:

- (a) is offered to be supplied on a wholesale basis;
- (b) is supplied by means of an optical fibre line; and
- (c) is offered to be supplied at each of the following maximum transmission speeds:
  - (i) download transmission speed of 8Mbps and upload transmission speed of 384kbps;
  - (ii) download transmission speed of 30Mbps and upload transmission speed of 1Mbps;
  - (iii) download transmission speed of 100Mbps and upload transmission speed of 5Mbps; and
- (d) has the following configurations:
  - (i) a 'best effort' or non-prioritised service, as characterised by the Differentiated Services Code Point Default Forwarding per-hop behaviour; and
  - (ii) connectivity made with static Layer 2 Tunnelling Protocol (L2TP) tunnels and Broadband Virtual Local Area Networks giving direct access to end user sessions; and
  - (iii) end-user sessions are aggregated together in the Telstra network via static L2TP tunnels supplied over Ethernet.

**Layer 2 bitstream service** has the meaning given in ~~section 152AC of the *Telecommunications Act 1997*. *Competition and Consumer Act 2010*.~~

**line** means a wire, cable, optical fibre, tube, conduit, waveguide or other physical medium used, or for use, as a continuous artificial guide for or in connection with carrying communications by means of guided electromagnetic energy.

**multi-dwelling unit complex** means a building ~~or buildings, where~~ that consists of multiple separate units for occupation (from time to time) ~~that~~ are used as a place of residence or business. ~~, and are contained within one complex~~

**NBN corporation** has the meaning given in ~~the *National Broadband Network Companies Act 2011*. *section 152AC of the *Competition and Consumer Act 2010*.*~~

**network-network interface** means an interface provided by an access provider at a **point of interconnection** where the access seeker's telecommunications network can interface to the access provider's network.

**node** means a roadside cabinet, pillar, pit or distribution point, but does not include an exchange, that:

- (a) houses the equipment for the supply of services, including access multiplexers, and
- (b) enables the physical connection to the end-user premises using access lines.

**point of interconnection** is a physical point of interconnection which allows the interconnection of facilities in accordance with subsection 152AR(5) of the *Competition and Consumer Act 2010*.

**public body** means:

- (a) the Commonwealth, a State or a Territory; or
- (b) a municipal authority or other local governing body; or
- (c) a public authority that is constituted by or under a law of the Commonwealth, a State or a Territory.

**superfast carriage service** ~~has the meaning given in section 152AC of the *Competition and Consumer Act 2010*.~~ means a carriage service, where:

- (a) the carriage service enables end-users to download communications; and
- (b) the download transmission speed of the carriage service is normally 25 megabits per second or more; and
- (c) the carriage service is supplied using a line to premises occupied or used by an end-user.

**telecommunications network** has the meaning given in ~~the *Telecommunications Act 1997* section 152AC of the *Competition and Consumer Act 2010*.~~

**end-user interface** ~~user-network interface~~ means an interface located at either:

- (a) a physically defined end-user's premises where the access provider's network is directly or indirectly present to an end-user; or
- (b) the jumper cable termination on the **network customer** side of the Main Distribution Frame located in the ~~multiple~~ multi-dwelling ~~unit~~ complex.