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Ms Deena Shiff  
Chair  
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Department of Communications  
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Dear Ms Shiff

**Re: Regional Telecommunications Review 2015**

Thank you for the opportunity to discuss the current Regional Telecommunications Review at our recent meeting. This is a very important review and we welcome the Committee's consideration of the consumer safeguard framework in this process. Following our discussion, I would like to provide some further information on a few of the key issues relevant to the ACCC, specifically the universal service obligation, consumer guarantees and backhaul in rural and regional areas.

**Universal service obligation**

The ACCC considers that the universal service obligation (USO) is critically important for consumers living in regional, rural and remote areas of Australia. Due to Australia's vast geographic area and low population density, we recognise that there will be some areas where it will not be commercially viable for service providers to offer competitive telecommunications services. The USO is important to ensure that all Australians have access to essential telecommunications services.

To that end, we recognise consumers' increasing reliance on mobile telephony and broadband services. We also note some issues with the adequacy of service delivery for these services in regional areas that have been identified in this review. We would strongly support changing the universal service obligation to introduce a technology-neutral obligation to provide both voice and data services. We agree that parameters that are consistent with NBN services could be a useful starting point.

We also support efforts to consider different ways of delivering the USO and agree that the Finnish model that the Review is considering could be a useful comparison.

Finland was the first country to recognise and include broadband as a universal service. The Finnish model adopts a technologically neutral universal service, in which the operator must provide services with a minimum speed, and must offer it at a reasonable price in a reasonable time. We consider that a model which designates an operator to provide broadband services in areas where supply would otherwise be inadequate would be appropriate for regional and remote areas of Australia. We note

that the Finnish model funds the service by way of a grant. We would support a funding method that supported the principles of transparency, economic efficiency, contestability, sustainability and equity.

We consider that establishing both an entitlement and minimum performance standards could be a useful way of setting the USO.

### **Customer service guarantees and the ACL**

The ACCC's main role in telecommunications consumer protection falls under the Australian Consumer Law (ACL). The ACCC has prioritised consumer protection in the telecommunications industry for a number of years and has undertaken enforcement and compliance action where appropriate.

The consumer guarantee provisions are an important element of the ACL. These provisions set out consumer rights to a repair, replacement or refund for products that are not of an acceptable quality. The provisions also allow consumers to cancel a service, and in some cases seek compensation for damages and loss, if services do not meet the consumer guarantees. While telecommunications equipment is covered by these consumer guarantee provisions, telecommunications networks and the services provided over those networks are not.<sup>1</sup> In practice, this means that consumers cannot rely on the ACL provisions if they have a problem with their telecommunications service. In the absence of industry-specific customer service provisions, there would be no recourse for consumers regarding network performance and service reliability.

We are aware that the current telecommunications Customer Service Guarantee (CSG) scheme is being reviewed in the context of the Government's deregulatory agenda. The ACCC is concerned to ensure that an appropriate safety net for consumers remains in place. Changes to the CSG which reduce such protections, may disproportionately affect consumers in regional, rural and remote areas. Therefore, we consider it important that some form of customer service guarantee scheme continue to apply to telecommunications services, particularly during the migration to the NBN.

### **Wholesale service obligations**

We consider that wholesale service level standards will be increasingly important with the introduction of the NBN because **nbn** will be responsible for the performance of the access network. We note that service level obligations are not included in the current regulatory arrangements, such as **nbn**'s special access undertaking. **[c-i-c]**

The Committee may like to consider the approach to service level obligations in the electricity sector. The Guaranteed Service Level schemes operate on a state-by-state basis and place obligations on distributors to maintain a prescribed level of service. If the service level is not maintained, customers may be entitled to a payment. Retailers also have service obligations regarding connection and disconnection processes. The National Energy Retail Rules govern the relationship between distributors and retailers in fulfilling their retail support obligations. This includes rules regarding assistance and cooperation, information requirements, shared complaints and enquiries and de-energisation and re-energisation of shared customer's premises. This framework may be a useful comparison to see how

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<sup>1</sup> Section 65 of the ACL specifically carves out telecommunications and electricity networks from the consumer guarantee provisions.

customer service obligations could operate in a similar industry that is not vertically integrated.

### **Service delivery and potential issues with backhaul**

The ACCC is aware of impediments to mobile competition in regional, rural and remote areas. This largely arises due to the significant costs of building infrastructure and providing services to these areas, which are characterised by low population density and therefore a lower potential subscriber base and uncertain commercial viability. We note that the forthcoming auction of 1800 MHz spectrum and the Mobile Blackspots Programme may help to improve coverage in some regional, rural and remote areas. NBN infrastructure could also be used to improve mobile services in regional areas, which could deliver significant long term benefits to consumers and businesses.

We acknowledge concerns that backhaul could potentially be a barrier to entry for competitive mobile services in some remote areas. The cost of backhaul is directly related to the capacity required and the distance of the backhaul link. In regional and remote areas, the backhaul link from the base station to a mobile operator's core network might be a relatively long distance and therefore more costly than in metropolitan areas.

We support the use of co-funding options, such as the Mobile Blackspots Programme, to help address areas where investment might not be commercially viable where this does not foreclose or substantially impact competition, either at the retail or wholesale level. Accordingly, we support using assessment criteria and funding terms and conditions to achieve this outcome where possible. We also support initiatives to deliver and use infrastructure more efficiently by coordinating with other projects such as road and electricity infrastructure.

### **ACCC's role in backhaul regulation**

The ACCC has set regulated prices for backhaul in areas where the supply of backhaul services is not competitive since 2011. The ACCC is currently undertaking a public inquiry to set new regulated prices for the regulated backhaul service, the domestic transmission capacity service (DTCS). We expect to publish a draft decision in early September and a final decision later in 2015. [c-i-c]

We are continuing to work on the model and will be consulting with industry on our draft decision. The model is based on domestic benchmarking, which relies on the cost of transmission on competitive routes, which is then adjusted to take into account factors relevant to providing backhaul in non-competitive areas. To help inform your analysis in the Regional Telecommunications Review, we have included some confidential prices in Table 1 below to give an indication of how we expect regulated prices to change on regional routes. This is draft modelling and we expect to make further adjustments as the inquiry progresses.

**Table 1: Regional route (~100km) [c-i-c]**

**[c-i-c]**

We also note that retail service providers will be required to use or acquire backhaul from NBN points of interconnection (POIs) to their points of presence. Of the 39 POIs located in regional areas, 19 are currently regulated under the DTCS declaration. We expect that there will continue to be further investment in transmission capacity from the POIs as the NBN rollout progresses and demand increases.

In the case of Tasmania, we note that infrastructure-based competition may be limited due to the significant costs of installing, maintaining and operating an undersea transmission cable. Backhaul links from the Tasmanian POIs to the mainland are regulated under the DTCS declaration. The current regulated transmission price for links across the Bass Strait includes a 40 per cent uplift to account for the additional costs associated with an undersea cable compared to a mainland route with similar characteristics. The ACCC's final access determination pricing inquiry will consider whether this remains appropriate. We note that since the ACCC first set prices for regulated transmission routes in 2012, the price of transmission services to Tasmania has fallen considerably.

We trust that this information will be of assistance.

Yours sincerely



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