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Consultation on NBN Co Special Access Undertaking Regulatory Arrangements

Australian Competition & Consumer Commission

By email: nbn@acc.gov.au

23 July 2021

Dear ACCC

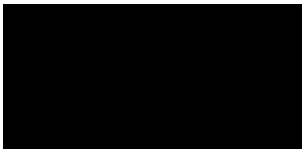
AGL Energy Limited (**AGL**) and Southern Phone Company (**SPC**) welcome the opportunity to provide input on the issues raised in your Discussion Paper in respect of regulatory arrangements under NBN Co's Special Access Undertaking (**Paper**).

AGL acquired SPC in December 2019 and launched AGL branded products in November 2020.

Our submission, including responses to the questions set out in the Paper, is enclosed.

Please do not hesitate to contact us if you have any questions in relation to this submission.

Yours sincerely,



David Joss
Head of Southern Phone Company



AGL Submission to NBN Co Pricing Review 2021

Summary

In summary, we consider that wholesale pricing should be simplified such that retailers are charged on an AVC only basis and a primary design principle should be that the SAU promotes a level playing field for all retailers.

We have initially focussed our comments on these key areas, which we consider have flow on impacts for many of the other important issues identified in the Paper. We are keen to continue engaging with the ACCC in respect of the other issues identified given the interrelated nature of the issues and the impact that resolution in one area may have to the approach in another.

Our responses to individual questions in the Paper are set out below.

Responses to specific questions in Paper

We have outlined three high level principles to use in assessing whether particular NBN access product and pricing arrangements would promote the long term interests of end-users. What additions, deletions or refinements would you recommend?

We agree that the objective of the price control measures should be to promote the Long Term Interests of End Users, and that this calls for consideration of competition and efficient investment in, and efficient use of, the NBN.

To promote competition, we consider a primary design principle should be that the SAU provides a level playing field for retailers. In this regard:

- The current CVC pricing construct inhibits the ability of smaller retailers to compete. For example, the variability of a retailers' end user capacity requirements at any point in time for any particular POI increase as the number of customers decreases. As such, it is more difficult for smaller retailers to efficiently manage cost and customer experience under the current pricing construct. This is exacerbated by the complexity, and consequent management time, associated with the current pricing construct.
- We do not agree that competition is promoted by a complicated pricing structure. We value simplicity and believe this assists us to provide retail products meeting the needs of customers at competitive prices. The current pricing construct is in our view unnecessarily complex and this complexity creates unnecessary inefficiency which impacts retailer costs.

The SAU should promote the efficient use of the NBN. In this regard:

- the present CVC construct results in wasted bandwidth and a poorer outcome for end users than would be the case under an AVC only pricing model. This is for reasons including the complexity of CVC management in the context of variable end-user demand.
- AVC only pricing would have a number of efficiency benefits including:
 - o better aligning the wholesale prices paid by RSPs with actual wholesale costs;
 - o removing the significant overheads incurred by RSPs in managing CVC capacity; and
 - o providing greater certainty for retailers as to future wholesale costs. In particular, removing uncertainty as to future costs would be likely to facilitate more competitive retail offers.

What ideas do you have so that NBN Co and access seekers can have reasonable certainty over their wholesale average revenues per user and access costs respectively?

The SAU should provide for AVC only pricing. This straightforward approach would in our view provide retailers and NBN Co with certainty. Furthermore, the efficiency associated with this approach would promote competition at the retail level and facilitate more competitively priced retail offers.



What suggestions do you have to preserve the breadth of retail products that are in market in the event that volumetric CVC charges were to be withdrawn or scaled back? Please consider how support for unique maximum speed products, diverse busy hour speeds, voice only and low data quota products could best be provided in such a wholesale pricing model.

For the reasons set out above, we do not consider that the long-term interests of end users are promoted by the retention of artificial pricing components and the associated additional complexity for retailers and, in some cases, end-users. Over 80% of NBN network households are on unlimited data plans.¹ This accords with our view that customers overwhelmingly prefer unlimited data products and that it is efficient given the capacity of the NBN network that wholesale pricing does not include a CVC component.

The provision of a range of different wholesale speed tiers by NBN Co in our view allows retailers:

- to provide end-users with a wide variety of options as to product speed; and
- ample ability to differentiate between retail products by a variety of aspects beyond different potential speeds at different times of day. For example, other aspects of product differentiation include pricing, backhaul capacity, customer service and billing.

We believe customer service is a key area in which retailers compete and that differentiated tiers of service at a wholesale level (including in respect of connections and fault rectifications) would assist retailers to provide products tailored to the preferences of end users.

Do you support a cheaper broadband product for low income earners? What form should it take and how should it be funded?

We support affordable access to broadband services for low-income earners but do not believe that this should be achieved through pricing policies designed to achieve a cross-subsidy between different groups of customers, as is contemplated in the first option identified in the NBN June 2021 Discussion Paper². Instead, we believe that policies to ensure low-income Australians have access to essential services, such as broadband internet, is a social policy, and that the funding of social policy should be the responsibility of government.

One possibility is that broadband services provided to low-income customers could be expressly subsidised by government through government payment of a portion of bills issued to customers meeting set criteria (relating to income or otherwise). This type of targeted and transparent approach would support an objective of the nbn, ie:

*'ensuring that all Australians have access to very fast broadband as soon as possible, at affordable prices, and at least cost to taxpayers.'*³

Additional questions

We have no additional comments at this time but will continue engaging on these questions as the process progresses.

¹ Accenture, Moving to a fixed price wholesale pricing model: Risks for low data users, 26 May 2021, slide 16.

² RMID1064 – nbn Special Access Undertaking Variation 2021 – Discussion Paper – June 2021, at page 21.

³ NBN Co Ltd, Statement of Expectations, 24 August 2016, page 1.