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13 September 2023

Australian Competition and Consumer Commission
Via email to: nbn@acc.gov.au

aussiebroadband.com.au

Dear Sean,

Re: ACCC Consultation Paper on the Proposed variation to the NBN Co SAU – August 2023

Aussie Broadband Limited (**Aussie Broadband**) welcomes the opportunity to respond to the ACCC's August 2023 Consultation Paper on the proposed variation to the NBN Co Special Access Undertaking (**Consultation Paper**). We appreciate the opportunity to provide our views on the changes proposed by NBN Co in the August 2023 Variation (**SAU variation proposal**).

Pricing Issues

Aussie Broadband is supportive of NBN Co's decision to proceed with Option 2 in the SAU variation proposal. Of the three (3) pricing options put forward by NBN Co in July 2023, Option 2 was the preferred option of Aussie Broadband. Whilst we still find the pricing under the November 2022 SAU variation proposal to be more favourable, in the interest of reaching an acceptable SAU variation proposal and timely implementation date, we accept the pricing conditions set under Option 2. We further urge NBN Co and the ACCC to proceed with acceptance and implementation of the SAU variation proposal in an expeditious manner to bring certainty to the industry and consumers.

General Regulatory Framework

Following NBN Co's November 2022 SAU variation proposal, Aussie Broadband, along with the ACCC, were broadly supportive of the changes proposed in regard to the general regulatory framework, however we shared the ACCC's concerns regarding the provision for the deemed acceptance of replacement module applications.

NBN Co's August SAU variation proposal appears to have largely addressed these concerns by proposing changes that allow the ACCC to require NBN Co to provide further information when it lodges a replacement module application, as well as an extended timeframe for the ACCC to come to a decision. Aussie Broadband is supportive of these changes and considers these to have addressed our remaining concerns around the framework.

NNI Pricing

Aussie Broadband considers the changes to network-network interface (**NNI**) pricing put forward in the SAU variation proposal to be acceptable, and we welcome the reduction of upfront and recurring NNI charges. Aussie Broadband has no concerns in relation to the amended pricing.

Low income and digital inclusion forum

The changes proposed in NBN Co's SAU variation proposal appear to be positive and in the interest of forming a transparent and collaborative forum. Aussie Broadband is also supportive of the strengthened reporting requirements of NBN Co.

Further, we see Telstra's suggestion for the forum to have an independent chair to be a meaningful improvement in the framework of the forum, and we support this being enshrined in the SAU as a requirement. Aussie Broadband also welcomes further discussion on an equitable funding model but would encourage that eligibility for product discounts be based on need, as opposed to the current location-based NBN connectivity eligibility requirements.

1 July 2024 price changes

NBN Co has indicated in their SAU variation proposal that they intend to go ahead with the price update scheduled for 1 July 2024, meaning that RSPs and consumers will be faced with a double price shock, notably on the 50Mbps and 25Mbps tiers, within approximately a 6-month period. Aussie Broadband has previously strongly objected to this, and we remain of the view that this will unacceptably detrimentally impact end-users—Australian households and small businesses. While we recognise that the elongated timeframe for negotiating a new SAU has resulted in additional economic stress to NBN Co, we cannot accept that Australian households and small businesses wear the impact of this to the benefit of NBN Co.

The ACCC's preliminary view on this scenario is that NBN Co's position on the double-shock price rise is valid. Aussie Broadband strongly disagrees, and we urge the ACCC and related stakeholders to actively forego the planned July 2024 pricing review in favour of providing cost-of-living relief in the form of stable pricing from NBN Co to Australian households and small businesses. We recommend that the July 2024 CPI increase be deferred and included in the July 2025 increase to provide a reasonable initial period of price certainty for end users.

Service transfer and access reactivation fees

NBN Co has introduced a provision for non-infrastructure transfer fees and satellite access reactivation fees to be lowered to \$1.50 and \$5 respectively. Aussie Broadband welcomes the lowering of fees and has no objections to this proposed change in the SAU variation proposal.

Service Quality

Aussie Broadband acknowledges that the changes to service standards proposed by NBN Co in their August SAU variation proposal are a material improvement upon the service standards set out under the previous November proposal. An improved ability to review benchmark service standards and increased consultation and reporting appear to be positive measures to improve service standards in the SAU proposal. Aussie Broadband does not have any concerns with the suggested amendments and we share the ACCC's view that the proposed changes appear to address gaps identified by stakeholders in the November 2022 consultation.

Treatment of capital contributions and changes to building block model (BBM) parameters

Aussie Broadband believes that the changes put forward under the SAU variation proposal improve transparency and we welcome the changes to treatment of capital contributions for NBN Co.

However, Aussie Broadband remains concerned with future pricing in scenarios where NBN Co do not meet the BBM premises targets, particularly in the current environment of growing substitution from fixed wireless access and satellite technologies. Aussie Broadband believes there is a risk that NBN Co will have to increase prices above WAPC modelling to meet ICRA due to lower premise numbers.

NBN Co's proposed expenditure for the first regulatory cycle and ACCC powers over future review processes

Aussie Broadband previously submitted that the ACCC should have powers to require NBN Co to prepare, maintain and share with stakeholders and the ACCC the types of information that would be typically required by regulators for expenditure review processes.

This concern has been addressed in the August 2023 SAU variation proposal; the ACCC will be conferred with sufficient powers to specify information and documents required for future expenditure reviews in the context of a replacement module process. This is now provided for in clause 5.2 (c)(ii) of the proposed variation, and NBN Co is required to provide the information requested by the ACCC under clause 5.2 (d)(ii). This is now in alignment with the outcome Aussie Broadband was seeking, and we have no further concerns with this area of the SAU variation proposal.

We appreciate the opportunity to respond to the consultation on NBN Co's August 2023 SAU variation proposal and would be willing to discuss our submission further at your convenience.

Sincerely,

A handwritten signature in black ink that reads "Jonathan Prosser". The signature is written in a cursive, flowing style.

Jonathan Prosser
Chief Strategy Officer
Aussie Broadband Limited