



Internet
Association
of Australia

INTERNET ASSOCIATION OF AUSTRALIA LTD
ABN 71 817 988 968
ACN 168 405 098
PO Box 8700
Perth Business Centre WA 6849
Phone: 1300 653 132

17 February 2023

To: Australian Competition and Consumer Commission

GPO Box 3131
Canberra ACT 2601

By email: nbn@acc.gov.au

Copied:

Scott Riordan
General Manager,
Communications Markets and Advocacy
sean.riordan@acc.gov.au

Scott Harding
Executive Director
Communications Markets and Advocacy
scott.harding@acc.gov.au

RE: Proposed Variation to the NBN Co Special Access Undertaking

INTRODUCTION

Thank you for the opportunity to express the Internet Association of Australia's (IAA) perspective on the proposed variation to the NBN Co Special Access Undertaking (**Proposed SAU**).

IAA is a member-based association representing Australia's Internet community. Our membership is largely comprised of small to medium sized internet service providers (**ISPs**) and retail service providers (**RSPs**), many of whom are access seekers to NBN Co's network. Our response is primarily in representation of these members, as well as for the public good of the Internet and telecommunications industry more broadly.

IAA has been actively involved in the recent SAU variation process, including through our submissions to consultations, participation in stakeholder workshops, as well as engaging with our members.

In general, we understand and appreciate that the Proposed SAU reflects many changes since its previous submission in March 2022, indicating a step forward based on consultation with industry and other stakeholders. However, we reiterate some concerns raised in our previous submissions that remain despite this Proposed SAU. Overall, IAA continues to urge the development of an SAU that ensures the delivery of a national resource that is consistently reliable, accessible and high-quality.

OUR RESPONSE

PRICING

While we acknowledge changes to NBN Co's pricing models for the TC-4 products based on consultation since its March SAU Variation, the cost of the 12 Mbps and 50 Mbps services still pose issues that are likely to arise in the near-future.

As the current entry level and most popular tiers (respectively), and likely to remain so for some time, the increased cost of these services is not in promotion of the LTIE. Given the convergence of the cost of the 12 and 25 Mbps as well as that of the 50 and 100 Mbps services that is likely to happen within 1-2 years, it still apparent that NBN Co are using these models to force RSPs and/or consumers to the higher speed tier services of 100 Mbps. We reiterate our position that while promotion of the high-speed tiers is encouraged, this should be based on genuine consumer choice.

We understand NBN Co's statement that the pricing structure should not be considered in a vacuum, and that the overall changes presented in the Proposed SAU must be taken into account. It is therefore necessary to consider that ultimately NBN Co's cost of debt and recovery continues to be a fundamental factor.

As such, the continued stalemate on this pricing model seems to suggest that there is a real need for greater collaboration between NBN Co and government in resolving NBN Co's debt and cost recovery concerns, without being at the expense of high quality, affordable and reliable public broadband.

NNI AND LOW-INCOME FORUM

We understand that some of the pricing concerns raised in previous rounds of consultation have been addressed through changes to NNI and it is likely endeavours will continue to address these issues in the future through further consultation on NNI and a Low-Income Forum. These issues were of critical concern for IAA and our members, and we appreciate NBN Co's acknowledgement of these issues.

However, it is difficult to endorse the acceptance of the Proposed SAU in its current state without knowing the outcome of the proposed future consultations on these issues. There is no certainty that these issues will be appropriately ameliorated in such a manner that provides genuine resolutions for smaller RSPs and vulnerable consumers.

Even if these consultations are successful, the overall time in conducting consultations, developing and implementing solutions is likely to take a long time. Meanwhile, vulnerable consumers will be the worse off.

While we welcome NBN Co's commitment to conduct these additional consultations, it is critical that these issues are also in part addressed via the SAU, notwithstanding our recognition that some immediate pricing relief has been provided to RSPs with respect to NNI.

SERVICE QUALITY AND STANDARDS

IAA is pleased to see there have been improvements to NBN Co's service quality and standards, including the introduction of benchmark service standards. We understand that these standards seem to be based on their proposal for the WBA5. However, we reiterate our recommendation for the fault threshold to be set to >5 in a 24-hour period, and repeating for at least 48 hours to ensure it is a genuine structural issue and not an isolated problem.

Again, as the cost for NBN is likely to rise for consumers given NBN Co's proposed pricing structure, failing to provide improvements in service quality will be hugely detrimental to RSPs and the broadband network more generally. While we appreciate NBN Co's explanation of the price-quality link,¹ we emphasise that this is not a concept that consumers are aware of. The expectation will be that higher costs amount to comparable increase in quality. Failure to meet this expectation, particularly in the context of the rising cost of living, will result in slower uptake of NBN especially as the industry faces competition from 5G and other networks. This is not beneficial to consumers, industry, nor NBN Co.

We also note that NBN Co's proposed standards do not provide enough clarity on fault drop out and speed thresholds across all its products. It is crucial that all Australian consumers are provided high quality service and that comparable standards apply across its network.

REPORTING

We continue to support NBN Co's public reporting, notwithstanding the development of record keeping rules (**RKR**) for NBN Co and other SBAS networks that is currently underway. As these RKRs will likely take some time to develop and implement, it is crucial that public reporting remains in the meantime.

CONCLUSION

Once again, IAA appreciates the opportunity to contribute to the consultation on the proposed variation to the NBN Co Special Access Undertaking. Ensuring a fit-for-purpose SAU remains crucial, especially given the current broader economic context in Australia, if we are to promote the use of the NBN network. To this end, we strongly recommend greater consultation and collaboration is required between government and industry along with other stakeholders to ensure an appropriate SAU that will actually benefit Australia.

ABOUT THE INTERNET ASSOCIATION OF AUSTRALIA

The Internet Association of Australia (IAA) is a member-based association representing the Internet community. Founded in 1995, as the Western Australian Internet Association (WAIA), the Association changed its name in early 2016 to better reflect our national membership and growth.

Our members comprise industry professionals, corporations, and affiliate organisations. IAA provides a range of services and resources for members and supports the development of the Internet industry both within Australia and internationally. Providing technical services as well as

¹ NBN Co, SAU Variation, *Supporting Submission – Part C Non-price terms*, November 2022, 10.2.4.

social and professional development events, IAA aims to provide services and resources that our members need.

IX-Australia is a service provided by the Internet Association of Australia to Corporate and Affiliate members. It is the longest running carrier neutral Internet Exchange in Australia. Spanning six states and territories, IAA operates over 30 points of presence and operates the New Zealand Internet Exchange on behalf of NZIX Inc in New Zealand.

IAA is also a licenced telecommunications carrier, and operates on a not-for-profit basis.

Yours faithfully,

Narelle Clark
Chief Executive Officer
Internet Association of Australia