



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

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To: The ACCC

By Email: nbn@acc.gov.au

Thank you for the opportunity to express the Internet Association of Australia (IAA) perspective on the ACCC Framing Paper. Many of IAA's members are small to medium sized internet service providers (ISPs) who are also NBN retail service providers (RSPs). This submission responds to the questions pertaining to Price Controls, as this is of significant interest to our members.

1. 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?

IAA would recommend incorporating service quality into the high-level principles. We see ongoing reviews of service quality as important in ensuring NBN Co continues to improve the overall quality of its network, performance and range of offerings in the long term interest of end-users. The third high-level principle acknowledges that access providers should have a reasonable opportunity to earn an appropriate return on investment. However, this should not discourage investment in technology upgrades, which is essential for Australians to access faster broadband speeds, more reliable services, improved security and to position NBN as a platform for future innovation. Incorporating service quality as a high-level principle can support the phasing out of obsolete, or ineffective, technologies and physical infrastructure.

Another high-level principle we advocate for is that of keeping barriers to entry low for new RSPs. We believe if this is a high-level principle, then provisions supporting competitive telecommunications services can be made.

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

Instead of simply increasing prices to retailers in order to recoup investment costs, NBN Co should be encouraged to achieve cost reductions through the efficient use of automation, network architecture improvements and more efficient staffing models.

The opportunity for NBN to incur its debt over a longer period of time may also allow it to obtain a return on investment over a longer period of time. Again, the basis that the NBN is a piece of vital national infrastructure over which the economy rides, would support this argument. The government could also consider a reduction in the cost of spectrum for fixed wireless services, on the basis of this platform being made available for a public good, particularly as fixed wireless services predominantly serve rural and more remote areas.

Other methods to improve the NBN cost base would be for it to be able to supply access seekers with equipment, bought at scale, such as home gateways.

3. 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.

In the case CVC charges are withdrawn or removed, RSPs would be able to compete by differentiating their products based on other network and service measures including customer support, uptime, local and international connectivity and latency as well as broader service offers.

An aspect IAA would stress is there needs to be less focus on product characteristics related merely to the technical access platform. The real diversity comes from services which run *across* the internet. Basic internet access is a commodity which should be operated over the simplest, most reliable platform with the longest likely in-service duration. We believe CVC-removal can better allow for this to occur.

Some options mentioned in the Framing Paper (p.6) which IAA sees as viable include:

- Measures permitting access seekers to control various quality dimensions through selectable product features including:
 - AVC speed tiers in formal product specifications to control maximum speeds which their various retail product offers can achieve.
 - Optional product features which allow access seekers to select the level of operational quality and traffic class priority which can be offered to individual customers.
- Making additional product features selectable within the access product description and then potentially introducing additional AVC 'speed bolt-ons' to allow further differentiation of off-peak periods. This could be offered at a fixed monthly fee instead of CVC pricing.

IAA, however, would be concerned with a model where access seekers offer quality of service options that prioritise different traffic classes (such as video, game partners etc.) without full transparency on the commercial arrangements and dimensioning rules in place, as this may reduce access to **the Internet** as an open access platform for innovation. Should classes of traffic be prioritised unfairly or without transparency, anti-competitive behaviour may result.

4. Should we consider regulatory controls to safeguard against discounts again becoming the principal means by which NBN access products and pricing are implemented? What form could these take?

IAA recognises that discounting is an important pricing strategy for NBN, however, it should not be the primary mechanism for managing pricing processes. We believe this is currently occurring as NBN Co currently uses promotions to encourage customers to upgrade. We recognise that NBN Co shares information about their discounting plans in advance through their roadmaps of notice periods of discount withdrawals or changes. However, these temporary discounts are designed to encourage consumers to switch RSPs to keep receiving discounts, which can contribute to a higher churn rate. As such, we encourage the ACCC to consider regulatory controls to prevent discounting from becoming the primary tool used for pricing. Examples of regulatory controls which the ACCC could consider include restrictions on the duration or nature of extensions for discounts.

In addition, we have found some of NBN Co's discounting approaches to be complex and difficult to follow.

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

IAA supports a cheaper broadband product for low income earners that is flexible and simple. The internet plays an integral role in how we conduct business, learn and communicate and we believe *all* Australians should have reliable and affordable access to this essential service. Internet consumption, however, is not uniform across all low-income earners and as such, cheaper broadband products should be flexible. It should also be simple for RSPs to provide by not requiring operators to have to conduct invasive checking of customer's income status.

The cheaper broadband product could take the form of a voucher or a direct subsidy of services. We suggest making the 25/5 Mbps service accessible for low income earners would be an important first step as it is fast enough for people to actively participate on the internet. However, if faster speeds are preferred by users

under specific circumstances, then higher speed services should be made available through partial or complete subsidisation.

One option for funding a cheaper broadband product would be by offsetting the cost for a low-income broadband product against higher speed tier offerings. Another option is to offer them through the support of government subsidies.

An important consideration is the product recognises costs which RSPs have and some RSPs have indicated that margins are low for the low entry products as is.

6. Regulatory controls can conceivably take the form of direct controls over certain price related access terms, along with more flexible arrangements for other prices. For instance, some individual tariff items could be specified in a regulatory instrument while other tariff items could be included within a broad basket for which there is an overall regulatory control. In what circumstances (if any) should we consider providing greater flexibility for NBN access product and pricing commitments within a regulatory period? For which price related terms is certainty so important that we should not consider providing such flexibility?

Regulatory controls over pricing measures can help deter the ‘race to the bottom’ which has been inherent in the Australian internet market over recent years, often at the cost of performance.

IAA would encourage the ACCC to think about the implications of price controls on competition, especially between larger and smaller access seekers. While larger access tend to have access to credit and financial flexibility, this is not often the case for smaller players.

Capacity and bandwidth available for individual consumer services are also not generally available on a linear basis. If one service costs \$10, a service with 100 times greater bandwidth is not necessarily 100 times more expensive, but can at times be equivalent to deliver. Specific architectures and delivery models drive the overall cost, so it is difficult to comment on price controls.

7. How often should the price related regulatory controls be reset?

It is difficult to set a timeframe which can simultaneously provide long-term pricing certainty and short-term flexibility in the case of adversity or market changes. As such, we propose a three year time frame, with a regulatory review taking place on a biannual basis. The nature of internet infrastructure is constantly changing, a timeframe any longer than this may make it difficult to adapt to changes inherent to the industry.

Once again, I would like to thank you for providing us with the opportunity to contribute to the NBN Co SAU process.

About the Internet Association of Australia

The Internet Association of Australia Inc (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 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 and lowest cost 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