



ACCC preliminary view on LTRCM capital expenditure and operating expenditure for 2019-20

On 30 October 2020, NBN Co submitted its regulatory information for the 2019-20 financial year as part of the annual Long Term Revenue Constraint Methodology (LTRCM) process.

The LTRCM process occurs under the NBN Co Special Access Undertaking (SAU), which is a key component of the regulatory framework for the supply of NBN Co's wholesale services. The objective of the LTRCM is to provide the opportunity for NBN Co to recover its prudently and efficiently incurred costs, including an appropriate return on its investments.

Under the LTRCM, the ACCC must make an annual determination that specifies key matters. These include NBN Co's annual allowable revenues, unrecovered costs, the initial cost recovery account, and compliance with the expenditure and price control requirements in the SAU. As part of this process, the ACCC must issue a preliminary view on NBN Co's compliance with SAU expenditure requirements and a draft LTRCM determination prior to making a final determination.

The ACCC and NBN Co have undertaken the LTRCM process annually since the SAU was accepted in 2013. The LTRCM process is an important mechanism to provide transparency over NBN Co's operation as the rollout nears completion. As noted during the 2018-19 LTRCM process, it is important that the LTRCM and other related processes should evolve to ensure relevant oversight, transparency and compliance measures remain fit for purpose in light of changing circumstances.

In this note, we set out our preliminary view on NBN Co's compliance with its expenditure rules as required under the SAU, and provide an update on other related matters the ACCC is considering in parallel with the current LTRCM process.

Preliminary view on expenditure compliance for 2019-20

Under clause 1E.1.2(c)(vii) of the SAU, the ACCC must provide NBN Co with a preliminary view on the extent to which the ACCC proposes to determine substitute amounts of capital expenditure or operating expenditure (as opposed to the values provided by NBN Co in its regulatory information) for the period in question.

The ACCC has reviewed and considered the information provided by NBN Co in its regulatory information and has reached a preliminary view. The ACCC's preliminary view is that it does not intend to determine a substitute amount of capital expenditure in accordance with clause 1D.3.2(d) of the SAU or a substitute amount of operating expenditure in accordance with clause 1E.8.2(c) of the SAU.

The ACCC will now prepare a draft LTRCM determination for consultation with stakeholders in early 2021, before making a final determination by 30 June 2021.

ACCC approach to NBN Co's expenditure post-rollout

In the 2018-19 LTRCM process we highlighted the likely change in NBN Co's expenditure profile following the end of the NBN rollout and the transition to a steady state operating

environment. We also noted the forthcoming transition to Module 2 and the need to consider our approach to expenditure as part of that process.

Although Module 2 does not commence until 2023, NBN Co is required to submit a proposal under Module 2 between 9 and 18 months in advance, and the ACCC is required to give notice to NBN Co at least 12 months before that. This means that the first stage of the transition from Module 1 to Module 2 will take place during 2021. We therefore propose that we will consider our approach to expenditure in Module 2 during 2021 and will engage with interested parties during that process.

Transparency in costs and revenue of individual services

In recent years, stakeholders have raised concerns about lack of transparency in NBN Co's activities in offering enterprise services, where NBN Co potentially competes with other network providers. They are concerned that there is insufficient data available to enable an assessment of whether NBN Co may be cross-subsidising its enterprise services from its residential and small business areas.

In the 2018-19 LTRCM process, we acknowledged that while the regulatory information provided by NBN Co as part of the LTRCM process had been sufficient for the purposes of assessing NBN Co's expenditure at an aggregate level, it did not separately identify costs and revenues for individual services. We said that we would undertake further industry engagement in relation to this matter.

We note that the government and NBN Co have recently announced a \$4.5 billion plan for network investment and upgrade which includes further expansion in enterprise services.

We consider that NBN Co's entry into the enterprise market is likely to increase competition and put downward pressure on prices. However, it is important that NBN Co remains competitively neutral in that segment of the market in order to facilitate efficient investment in the long term.

We will consider whether additional transparency would be required to ensure competitive neutrality in the enterprise segment of the market and, if so, what a suitable approach would be for implementing required measures. We will contact industry participants and other stakeholders shortly with a view to commencing discussions in early 2021.

While this matter was initially raised in previous LTRCM processes, it is unclear whether the current LTRCM process would be best suited for addressing it. Therefore, we propose to undertake a separate process for consideration of this matter.

Next steps

The ACCC is required to follow the process set out in the SAU prior to publishing a final LTRCM determination before 30 June 2021. The next stage of our process involves the release of a draft LTRCM determination in the first quarter of 2021 which we will consult on publicly.

Although we will consult following the draft LTRCM determination, we will also consider any feedback on this statement. The ACCC will consider any submissions or feedback we receive prior to 28 February 2021 as part of the draft LTRCM determination.

We expect NBN Co will provide adequate transparency during the 2019-20 LTRCM process, including providing access to interested parties to relevant confidential information under appropriate confidentiality arrangements.