

## This Submission is in response to the ACCC Consultation Paper Feb 2023

<https://www.accc.gov.au/system/files/NBN%20Co%20SAU%20variation%20-%20Consultation%20paper.pdf>

### Launtel Submission

**Format for submissions** The ACCC prefers to receive submissions in electronic form, in either PDF or Microsoft Word format which allows the submission text to be searched. Please email submissions by 5pm on 17 February 2023 to [nbn@acc.gov.au](mailto:nbn@acc.gov.au) and copy to: Sean Riordan Scott Harding General Manager, Communications Markets Executive Director, Communications and Advocacy Markets and Advocacy ACCC [Sean.Riordan@acc.gov.au](mailto:Sean.Riordan@acc.gov.au) [Scott.Harding@acc.gov.au](mailto:Scott.Harding@acc.gov.au)

---

### Launtel Submission

#### Introduction

Launtel is a boutique provider of internet services primarily utilizing the NBN access network to service their customer base that is approaching 15,000 NBN connections across Australia.

Launtel is primarily a premium customer service provider and a technology company and this combination has seen us consistently top the customer service award category with Product Review as the Best Internet Service provider in Australia and then more recently with Choice Awards ranking us as the fastest NBN provider based on the data published by the ACCC on network performance, typical evening speeds and advertised speeds on the NBN.

Within the NBN accounts team, Launtel is classified as a 'challenger brand' and holds a 2.1% market share within this challenger brand segment. This segment includes all directly connected service providers smaller than Aussie Broadband and currently consists of approximately 600,000 connections, or about 7.1% of the entire NBN connection base (Assuming 8.5 million connections nationally, reference below). [How we're tracking: December 2022 | nbn](#)

Launtel is based in Tasmania and currently employs 43 people across our Launceston head office and our national work from home team.

Launtel has a strong interest in the original ideals of the universal fibre NBN and the initial goals to provide high quality fibre access to all homes and businesses within Australia and for the access network to provide a level playing field to all RSPs wishing to supply internet services to their customers.

We see this submission as a representation of these ideals as we focus on the areas that we see inequality or unfairness and put forward suggestions to improve the particular conversation points.

These points can be broken down into a few categories, and we'll identify these main discussion points below before addressing the points in further detail further into the submission.

- Recurring NNI fees and their resulting effect of creating an uneven playing field,
- The nexus of several competing objectives being;
  - the level of ICRA,
  - the objective to earn a commercial rate of return,
  - to provide a reliable service to low income earners and
  - reduce the loss of clients to the 4G wireless network providers.
- Churn and Connection fees.

## NNI Fees -

There was a presentation from Launtel that was delivered at the ACCC Round Table in August 2022. This presentation can be found at [NNI & vNNI charges](#)

The reason that Launtel has raised the subject of NNI Recurring Monthly fees is that it is a very large additional cost (measured as a percentage of the AVC cost) for the smaller, challenger brand telcos.

To put some numbers on this, commercial realities dictates that when setting up a direct connection to a new POI on the NBN, a small RSP has to choose either a 1G (100 to 200 clients) or 10G (1,000 to 2,000 clients) NNI Port, whereas a larger provider will opt for the 100G (10,000 to 20,000 clients) NNI Port.

Note - For my figures outlined below, I'll use Launtel figures for the small provider values and then compare them against a theoretical 'larger provider' that has 1,210,000 clients nationally that are evenly spread over the 121 POI and that utilize an average bandwidth allocation the same as Launtel uses for these figures (10mbps per client). We have used this bandwidth figure to ensure we have bandwidth allocation for the high number of gig services on our network (currently about 10% of all our connections)

On the surface, this seems straightforward, until you realize that the 1GB Port is not really an option if you are offering higher speed connections such as gig. **In many ways, the 1G port has become redundant within the industry due to the low number of clients that can be housed on such a small capacity link and in the reduction in cost of 10 and 100G devices.** To offer 500Mbps and 1Gig services, you need to either have 2 x 1G NNI Ports or 1 x 10G NNI Port. Both these options currently total \$400 per month in recurring monthly fees. If Launtel were to have 200 clients on these POI, this represents a \$2 per month per customer cost.

Please note, this is also the best case scenario. If we start off with lower numbers (20, 50 or even 100 clients), the figures are worse and are \$20, \$8 or \$4 per client per month.

**If Launtel wishes to remove the single point of failure of a 10G NNI Port and install a second 10G NNI Port (and replicate the redundancy profile that a large telco would utilize), it's now \$4 per month per client in recurring monthly fees.**

For our larger theoretical provider with about 1,200,000 clients nationally (or 10,000 per POI), the economic reality is very different.

Two x 100G NNI equals \$4,800 in recurring monthly NNI fees.

With 10,000 customers sharing this monthly recurring fee, the cost is \$0.48 per month per client in recurring fees. It should be noted that for the largest providers, these client figures could easily be doubled, resulting in a halving of the recurring monthly fee per client to \$0.24 per month per client in recurring monthly fees.

This is hardly a level playing field \$0.24c per client v's \$4.00 per client for exactly the same service or 16.6 times higher per client for the same service.

We do understand that the NBN has been working on this and has proposed a halving of the NNI fees for 1G and 10G Ports and this is a good start. However, it still only moves the multiple from 16x the price for this one component to 8x the price. Still, hardly a level playing field.

To further dissect the figures, we can look at these costs on an industry wide level across the challenger brands and then the larger established telcos.

The challenger brands (as mentioned above) currently hold about 600,000 connections or 7.1% of the market. The large brands therefore hold 92.9% of the market consisting of about 7,850,000 connections.

**NOTE** - Above figures are based on the entire NBN network having about 8.5 million connections - [Australia: number of premises with NBN activations 2022 | Statista](#).

If we use the figures I have outlined above for the 'per client per month recurring fees' we can see the following;

**Challenger Brands** - \$4.00 per month per client x 600,000 clients = \$2.4M - This reduces to \$1.2M with NBN planned changes.

**Large Brands** - \$0.24 per month per client x 7,850,000 clients = \$1.9M

In other words, a 7% market segment is currently paying higher monthly recurring access fees than the other 93% of the market COMBINED.

On a percentage basis, these monthly access fees are also large for a small telco when compared to the recurring monthly AVC price. ie, we are not talking about a small line item charge here.

NBN AVC Monthly charge for a 50/20 is \$45 per month. A \$4 per client per month NNI fee constitutes an additional 8.88% charge for the smaller telco as opposed to an additional 0.55% additional charge for the larger telcos when factoring in the NNI Charges.

**vNNI's -**

There has also been discussion about vNNIs and the role they play in the reduction in monthly access fees for smaller RSP. We regard this as a distraction from the real issue' as the NNI charges are still in effect for the RSP that is providing the vNNI services to the downstream RSP. Most vNNI providers pass on the costs of the vNNI based on the assumption that the NNI is only partially full and therefore charge an extra premium in the order of 10-15c/Mb to the downstream RSP.

We believe that our analysis of the economics of NNIs between small and large RSPs is still accurate and outlines that there is a consistent and quantifiable advantage that larger RSPs have over smaller RSPs for the NNI component of NBN services.

**In conclusion** - We feel that this subject is a major cause of inequality in gaining access to the NBN and is against the stated aims of the NBN, that being to provide equitable access promoting competition and encouraging efficiency.

**Launtel is not against NBN covering their costs for these NNI Ports and access, but feel that the charges could be charged on a fixed per connection price, say \$0.25 per connection per month across the board.**

**Launtel would also agree if the ACCC regulated this price to ensure that NBN conducted a pure 'cost recovery model' of their justifiable costs for providing and installing the NNI Ports.**

**It should be noted that these fees constitute about 0.1% of all NBN revenue and could be abolished altogether without having a material impact on the NBN revenue model.**

**ICRA -**

This is obviously a big financial topic and one that Launtel does not have particular expertise in.

However, the consequences of the ICRA (and other financial performance objectives such as the aimed investment grade commercial return) could have material effects on the NBN market over time.

As a challenger brand, Launtel is able to provide services over the NBN. If these fixed line services rise in price, Launtel has no choice but to put up our prices to our end clients. If our prices for these NBN services rise too fast, we don't have alternative networks that we can migrate our customers to and continue providing services to our clients.

Larger telecommunications providers however do have other options. If NBN access becomes uneconomical (or their customers become more price sensitive), they do have other network options such as 4G coverage that they could move sections of their customer base over to. As owners of these

networks, they would be able to keep the revenue within their business simply by using another access network that is available to them.

Whereas for Launtel, if the base NBN access network becomes uneconomical over time, the customer has the option to move to a wireless network with one of the larger providers and Launtel lose the customer and the revenue.

And this is the point where these other financial points intersect with the services Launtel provides.

**ICRA** - The higher this figure, the more pressure there is for higher prices over the long term

**Commercial Rate of Return** - The higher desired commercial rate of return, the higher prices will be over time

**Wholesale NBN Prices** - The higher that NBN wholesale access prices are, the higher the proportion of the Australian population that will find wireless networks attractive

**Alternative Wireless (4G) Access Networks** - Each Australian that uses wireless networks for their broadband requirements places an additional financial cost onto all other NBN connections to cover the costs of the network and provide the commercial rate of return. A loss of 5% of the client base would see an additional pressure of 5% higher prices on the rest of the client base to gain the same revenue.

#### **In conclusion -**

Overall, the average Australian taxpayer (the ultimate owner of the NBN infrastructure) pays for higher NBN connection fees through their domestic service provider monthly bills **and** the built in costs of the businesses they use on a daily basis for groceries, child care, retail and education.

**The lower the ICRA is set, the easier it will be for NBN to provide cheap and reliable service to Australian homes and businesses whilst also making a commercial return.**

#### **Churn/Activation Fees -**

Churn fees have been a part of the NBN pricing model since it's inception and have changed over the years as pricing models have evolved. Although they are not currently part of the SAU, we feel that they should be bought under the regulatory umbrella to create an even playing field both within the NBN arena and then also across other service providers.

Initial pricing for Service activations was FREE

Initial pricing for Churns was \$22.50

This was standardized a few years ago into a flat price of \$5 for an activation OR a churn, however this structure was bought in to cover the costs of truck rolls or technician attendance at the point of service activation in the event of the equipment failing.

**Launtel feels that churn fees are inappropriate as the process simply involves an account change from one service provider to another.**

**It should also be noted that NBN has a hidden fee when churns are performed. As each provider (the existing provider AND the churning provider) pay for the service being active for part of the day that the churn is performed, NBN have effectively gained twice the revenue for that service for that day.**

**Launtel have no objection to NBN charging an 'Incorrect Churn Fee' to a carrier that incorrectly churns a service as this is a common occurrence and causes a lot of disruption and costs to our business customers in particular.**

With the NBN quickly moving away from FTTN/C technologies toward FTTP, the occurrence of truck rolls due to equipment failure (mainly an issue due to the copper or copper hardware) at service activation is reducing and will continue to reduce over the coming years.

**In conclusion -**

**Launtel feels that this activation fee reduces the flexibility that small providers play in the market and reduces the innovative vigor that small providers play in service offerings and that activation fees and churn fees should be returned to zero.**

**Low Income Initiatives -**

Launtel has a good understanding of the low income client base. As a flexible provider with a service that can be activated/deactivated on a daily basis, we have a lot of clients that use us on the days that they have dollars available and then disconnect or pause their connection for several days to save money.

There seems to be a lot of interest in this demographic and how to mitigate the effect of plans that NBN have to raise prices, particularly the 50/20 service.

These discussions, although welcome, will quickly get to the core issue that low income families want internet access at an affordable price that will rise in price at a lower than rate of CPI.

Launtel sees there being a few options that may help in this regard.

- NBN have a concession card style product where low income and concession card holders are able to get a discount on the services they buy from the NBN through their RSP
- The NBN provides a bandwidth boost (speed boost to the next speed tier) at no additional cost to low income and concession card holders, allowing them to be on a higher speed service for a lower price.

## Additional Points -

Below are some additional dot points or comments on the NBN SAU or the ACCC Discussion Paper

- **Regulated price path to 30 June 2032** - This passage states that “Price changes for speed tier offers would be limited to no more than 5 percent or CPI (**whichever the higher**), other than for the entry level data access offer which would be limited to CPI increases.”

Should this read 5% OR CPI - **Whichever the LOWER?**

With current inflation at 8% per annum, the above statement talks about limiting price rises, but guarantees that price rises would be at least 5% and would be higher if inflation is greater than 5%. This could also lead to price shocks should inflation be at ~10% for a few years running as a 50/20 in this scenario would see rises of \$5 per year and would move from \$50 to \$60.50 within a 2 year period in this scenario.

- Cost Allocation Methodology - We agree with this proposal
- Launtel agree with bringing the other access technologies under the scope of the SAU
- WAPC - An important feature of these arrangements is that the CPI+/-X formula could potentially result in price increases that are above CPI in certain circumstances once the ICRA draw down amounts become available.
  - Launtel feels that a model that includes an annual variable that could push price rises into levels that are higher than CPI could push price shocks through to RSPs and consumers and promote price uncertainty.

[Opening Statement to the House of Representatives Standing Committee on Economics | Speeches | RBA.](#)

---

## ACCC - Requests for Feedback

### 5.1.3. Issues / questions for stakeholder views

The ACCC seeks comments from stakeholders on whether NBN Co's proposed changes to the replacement module process are reasonable and in the LTIE (Long-term interests of end-users). In particular, the ACCC seeks comments on:

- the suitability and completeness of the proposed regulatory module processes, including the new pre-lodgement consultation requirement and the proposed timeframes
- the appropriateness of the change in control provisions to terminate the SAU then in operation.

### Launtel Response

The process of RSPs contributing to discussion on individual points of interest is appropriate and Launtel welcomes further discussions on topics on a case by case basis. The framework of how these discussions are coordinated on an industry and regulatory wide basis are outside of our expertise.

### 5.2.3. Issues / questions for stakeholder views

The ACCC seeks comments from stakeholders on whether the post-2032 arrangements are reasonable and in the LTIE (Long-term interests of end-users). In particular, the ACCC seeks comments on the following issues:

- whether the proposed arrangements achieve an appropriate balance between providing regulatory certainty to both NBN Co and retailers about how matters are to be determined through the replacement module process, and flexibility to determine arrangements that better respond to conditions and regulatory best practice at the time
- whether the proposed Module 3 principles are likely to provide appropriate incentives on NBN Co to operate in a prudent and efficient manner and safeguard against price shocks while allowing it a reasonable opportunity to achieve a stand-alone credit rating before the end of the SAU term. If not, what changes to the principles would you propose?
- whether the proposed arrangements are likely to result in any undue complexity or whether there are gaps in the regulatory framework that could lead to any unintended consequences
- whether the proposed arrangements appropriately mitigate the risk of price shocks that could result from NBN Co pricing its services to achieve a stand-alone credit rating for the duration of each regulatory cycle in the post 2032 period.



## Launtel Response

Launtel thinks that the replacement module process is appropriate.

Launtel thinks that there is still a possibility of price shocks in the future and this is dependent on how the amount of ICRA payback per annum and the rate of inflation intersect in the future.

### 5.6.3. Issues / questions for stakeholder views

The ACCC seeks comments from stakeholders on whether NBN Co's proposed treatment of accumulated losses is reasonable and in the LTIE (Long-term interests of end-users). In particular, the ACCC seeks stakeholder views on:

- whether the proposed methodologies NBN Co has used in developing its proposed opening ICRA (Initial cost recovery account) balance of \$12.5 billion represents an appropriate approach to achieving and maintaining a standalone investment grade credit rating.
- whether the proposed arrangements would likely promote efficient investment in and use of the NBN
- whether the commitments to extinguish residual ICRA (Initial cost recovery account) balances at the end of the subsequent regulatory period and the post-2032 regulatory period would resolve concerns around future price and regulatory uncertainty beyond 2040
- whether the proposal to determine ICRA (Initial cost recovery account) drawdown amounts ahead of each regulatory cycle, subject to the condition that the total amounts specified in the SAU can be recovered, provides a suitable safeguard against price shocks or prices that are higher than needed given the more fundamental limitation proposed on the ACCC's power to make a determination in the post-2032 regulatory period.

## Launtel Response

Launtel has discussed this topic above and will include the relevant text here again.

### ICRA -

This is obviously a big financial topic and one that Launtel does not have particular expertise in.

However, the consequences of the ICRA (and other financial performance objectives such as the aimed investment grade commercial return) could have material effects on the NBN market over time.

As a challenger brand, Launtel is able to provide services over the NBN. If these fixed line services rise in price, Launtel has no choice but to put up our prices to our end clients. If our prices for these NBN services rise too fast, we don't have alternative networks that we can migrate our customers to and continue providing services to our clients.

Larger telecommunications providers however do have other options. If NBN access becomes uneconomical (or their customers become more price sensitive), they do have other network options such as 4G coverage that they could move sections of their customer base over to. As owners of these networks, they would be able to keep the revenue within their business simply by using another access network that is available to them.

Whereas for Launtel, if the base NBN access network becomes uneconomical over time, the customer has the option to move to a wireless network with one of the larger providers and Launtel lose the customer and the revenue.

And this is the point where these other financial points intersect with the services Launtel provides.

**ICRA** - The higher this figure, the more pressure there is for higher prices over the long term

**Commercial Rate of Return** - The higher desired commercial rate of return, the higher prices will be over time

**Wholesale NBN Prices** - The higher that NBN wholesale access prices are, the higher the proportion of the Australian population that will find wireless networks attractive

**Alternative Wireless (4G) Access Networks** - Each Australian that uses wireless networks for their broadband requirements places an additional financial cost onto all other NBN connections to cover the costs of the network and provide the commercial rate of return. A loss of 5% of the client base would see an additional pressure of 5% higher prices on the rest of the client base to gain the same revenue.

#### **In conclusion -**

Overall, the average Australian taxpayer (the ultimate owner of the NBN infrastructure) having invested initially in the NBN now also pays for higher NBN connection fees through their domestic service provider monthly bills **and** the built in costs of the businesses they use on a daily basis for groceries, child care, retail and education.

**The lower the ICRA is set, the easier it will be for NBN to provide cheap and reliable service to Australian homes and businesses whilst also making a commercial return.**

We do think that the proposed arrangements will promote efficient investments into the NBN.

### 5.8.3. Issues / questions for stakeholder views

The ACCC seeks comments from stakeholders on whether NBN Co's proposed cost allocation framework, and proposed accounting separation and transparency framework for the subsequent regulatory period are likely to promote the LTIE (Long-term interests of end-users) and are reasonable. In particular, the ACCC seeks stakeholder views on the following:

- would the proposed cost allocation principles and framework for the subsequent regulatory period provide for effective accounting separation of NBN Co's competitive services from its monopoly services?
- is the initial cost allocation manual submitted by NBN Co fit for purpose and clear in its approach to cost allocation between NBN Co's core and non-core services?
- are the proposed cost allocation principles for the subsequent regulatory period, and cost allocation manual, likely to reflect relevant cost drivers and appropriately allocate costs between NBN Co's core and non-core services?
- are the processes for periodically reviewing cost allocations for the subsequent regulatory period through the replacement module process, and for considering cost allocations for new services in the subsequent regulatory period, appropriate and adaptable to changing market and other conditions?
- do the proposed cost allocation framework and accounting separation procedures achieve the right balance between appropriate flexibility on implementation and effective ACCC oversight, regulatory control, and recourse where necessary?

### Launtel Response

Launtel supports the concepts and proposals in the cost allocation framework.

### 5.11.3. Issues/questions

The ACCC seeks views on whether the service quality framework and benchmark service standards for the subsequent regulatory period by NBN Co in the SAU variation are reasonable and promote the LTIE (Long-term interests of end-users).

In particular, the ACCC seeks views on:

- whether the proposed regulatory oversight is sufficient to promote the adoption of benchmark service standards that reflect more closely end-user service requirements and willingness to pay
- whether clause 5.10(b)(iv) and (d) (Main Body of the SAU variation) would permit the

ACCC to establish a mid-cycle regulatory review mechanism and/or introduce a service performance incentive scheme for a regulatory cycle of the post-2032 regulatory period

- whether proposed regulatory safeguards provide sufficient flexibility during a regulatory cycle to respond to unforeseen events, and
- whether the proposed benchmark service standards for the first regulatory period address current issues that could be impacting NBN consumers and, are reasonable. In addition, whether there is sufficient clarity and certainty with regards to service quality in the proposed benchmark service standards.

### Launtel Response

Launtel welcomes the inclusion of service standards into the SAU and improved service standards that should result in a better end user experience and service reliability over time.

#### 5.12.3. Issues / questions for stakeholder views

We seek stakeholder views on whether NBN Co's proposed performance and operational reporting commitments for the first regulatory cycle are appropriate and in the LTIE.

### Launtel Response

Launtel believes that the reporting arrangements for NBN around faults and congestion should be increased rather than watered down.

With the removal of CVC limits over time and the general increase in bandwidth utilization by the average user over time, there is the risk that parts of the NBN could become congested during peak periods or busy times of the year such as summer holidays.

Reporting is useful so that RSPs can track these changes.

Fault reporting will also be a metric that becomes more important over time. With the work from home model now firmly entrenched in many workplaces, the importance of reliability and rapid fault rectification becomes more important.

#### 5.13.3. Issues / questions for stakeholder views

The ACCC seeks comments from stakeholders on the proposed ACCC functions and powers

under the SAU variation. In particular, the ACCC seeks comments on the following issues:

- our proposed approach to assessing the sufficiency and effectiveness of the proposed functions and powers that are to be conferred on the ACCC. Are there any other checks that we should be doing on the powers and functions that have been proposed to be conferred?
- whether there are any further functions and powers that should be conferred so that the proposed regulatory controls will be effective, and to ensure the SAU variation promotes the LTIE (Long-term interests of end-users), and its terms and conditions are reasonable over time
- whether the limits that apply to the exercise by the ACCC of the functions and powers conferred on it by the varied SAU are certain and readily ascertainable.
- whether the proposed new clauses provide for general powers for the ACCC to request information in relation to its exercise of functions and powers and consult with third parties will ensure decisions are made on an informed basis, and that this occurs in an open and transparent process.

### Launtel Response

Launtel has no specific views on this area of the SAU but believes generally that the more powers the ACCC has, the better the LTIEs will be represented.

### Other Launtel Responses

NBN Discussed the “Regulated price path to 30 June 2032” and goes onto mention that “Price changes for speed tier offers would be limited to no more than 5 percent or CPI (whichever the higher), other than for the entry level data access offer which would be limited to CPI increases”.

**Is this intended to be Price changes for speed tier offers would be limited to no more than 5 percent or CPI (whichever the LOWER)?**

Where a speed tier increased in price within its individual control by more than CPI, another speed tier offer would need to increase by less than CPI to allow compliance with the WAPC (Weighted average price control).

This may have the unintended consequences of pushing clients into ‘less optimal’ speed tiers. For example, the 25/5 has a proposed price reduction of about 30%, from \$37 to \$26 per month. This, combined with the increase in the 50/20 speed tier may have the result of a large number of people moving to a lower grade service based solely on the price point, even though their requirements and UX would be better suited to a 50 or 100Mbps service.

## Summary

Launtel thanks the ACCC for its continual engagement and collaboration as the industry works toward an agreed path into the future for the NBN.

We are of the strong view that all NBN participants must be heard from to ensure that the NBN continues to provide services on a level playing field as outlined in its primary objective, that being to provide equitable access promoting competition and encouraging efficiency.

It's only with a strong and vibrant competitive marketplace customers will see innovation in the services that they can obtain from the NBN as it is primarily the new and small providers that introduce this innovation.

Equitable commercial terms would allow a challenger brand such as Launtel and other new providers to play on a commercially level playing field, reduce its cost base (to a similar cost base as the larger players) and invest further money into new and innovative services.