Review of the Measuring Broadband Australia Program Consultation Paper

nbn submission to the ACCC in response to the 'Review of the Measuring Broadband Australia Program Consultation Paper'

nbn Response - Overview

nbn welcomes the opportunity to respond to the ACCC's 'Review of the Measuring Broadband Australia Program Consultation Paper' (**Consultation**). The end of the program's initial phase aligns well with the completion of the at-scale build and migration phase of the **nbn**™ network. Accordingly, it is **nbn**'s view that it is a fortuitous time to review the program, to specifically consider whether the program has a purpose to serve going forward and whether there are possible areas for improvement in order to increase the future effectiveness of the program.

nbn has historically been a supporter of the Measuring Broadband Australia Program (**MBA Program**) and remains of the view that the MBA program is valuable. **nbn** believes that the MBA program should continue as it has proven to be an effective part of a wider program of work by the ACCC in bringing about changes to how industry advertises retail broadband services and increasing consumer awareness and understanding of the technical performance capability of superfast broadband networks and services.

However, **nbn** acknowledges and shares the views of others that the renewal of the program provides an opportunity to address issues that industry has identified as impeding its effectiveness, and there some changes that the ACCC should consider which will enhance the effectiveness of the MBA program going forward. These changes include expanding the program to include a larger sample size as well as including fixed wireless services, the discontinuation of monitoring ADSL services, performance comparisons to advertised speeds rather than wholesale speed tiers, and the inclusion of retail services delivered over non-**nbn** networks.

This submission elaborates on each of these points by responding to each of the individual questions raised by the ACCC in its Consultation.

Extending the MBA program to include Fixed Wireless services

As part of its Consultation, the ACCC has asked industry participants if the MBA Program should be extended to **nbn's** Fixed Wireless services. **nbn** is supportive of extending the program in this manner, however there are some important technical and statistical points that should be considered.

Due to the small sample size of lower speed tiers on **nbn**'s Fixed Wireless network, **nbn** recommends limiting the volunteers to Fixed Wireless Plus customers only. This ensures a more comparable report of network experience from different parts of the network. **nbn** also suggests that sampling should be limited within the same geographic areas, for example, limiting the sample to around five customers per site might be appropriate.

Additionally, due to the shared access network that LTE provides, and the variable experience based on specific installation considerations for each end user, measuring speed against a theoretical peak speed may not provide a useful or effective reporting construct. **nbn**'s Fixed Wireless Plus service provides speeds above a minimum of 25 Mbps download and 5 Mbps upload at the time of installation and as such it would be more appropriate to report in relation to these thresholds.

Additionally, **nbn**'s present transparency metrics outline **nbn**'s busy hour design targets and rather than assessing busy hour against the network peak it would be more appropriate to report performance against **nbn**'s busy hour design target.

Specific Reponses to ACCC Questions

The remainder of this submission provides responses to each of the ACCC's questions detailed in its Consultation.

Question 1: To what extent has the program produce worthwhile outcomes and has met its objectives? (effectiveness)

nbn notes that in its Consultation, the ACCC refers to four major objectives of the MBA Program. The ACCC also highlights that the MBA Program operates as part of the ACCC's wider framework of activity including the Broadband Speed Claims Guidance and other monitoring and enforcement activities.

nbn believes that the program has been effective and met all the major objectives cited in the Consultation. In particular, the Quarterly Reports increase transparency and consumer awareness of speed and performance issues as well as other technical aspects of high-speed broadband services. Notwithstanding this, **nbn** is also of the view that there is room for adjustments and improvements to the MBA Program to further increase its future effectiveness.

Question 2: What have been the particular features of the program that made a significant difference to achieving its intended outcomes? (impact evaluation)

The MBA Program benefits from consistent and regular reporting which allows the provision of comparable metrics over time. This allows industry participants and consumers to see the results of the improvements that **nbn** and RSPs have made to their services and how the **nbn**™ network is standing up to increasing demand, including in response to unexpected events such as COVID-19.

Question 3: What unintended outcomes (positive and negative) have been produced? (impact evaluation)

The comparison of retail performance against wholesale network speeds creates unintended confusion for customers. For example, the most recent MBA Quarterly Report states that users on **nbn** connections received an average download performance of 88.5% of maximum plan speeds during all hours. The report also states that a small percentage of users (0.8%) received results greater than 100% of maximum plan speeds, due to **nbn** over-provisioning at the wholesale level.

Results reported in this manner are not only confusing to customers, but they involve an 'apple with oranges" comparison. As per **nbn**'s recent submission to the ACCC in respect of its Broadband Speed Claims Guidance, the wholesale underlying network speed is not a relevant comparator metric to retail level speed performance. A like for like comparison would involve comparing the actual speeds observed by SamKnows to the advertised plan speeds used in RSP marketing.

Question 4: Do the outcomes of the MBA program represent value for money? (efficiency)

While **nbn** is supportive of the MBA Program as a whole, there are some improvements that may deliver greater value for money. Particularly, the ACCC should focus on increasing the volunteer base in order to have a more reliable and robust range of RSPs and technologies. This could be achieved by discontinuing some of the metrics in the Quarterly Reporting or by reducing the frequency of the public reporting from quarterly to bi-annually. Another option would be to explore potential synergies from sharing of the data sets between **nbn** and the ACCC.

Question 5: What level of engagement have you had or expect to have with the MBA program and its outputs (reports, data release)?

As the operator of the largest network monitored by the program, **nbn** feels that it has had an appropriate level of engagement with the MBA Program, including the provision of data under the Record Keeping Rule as well as technical discussions with the ACCC. **nbn** has welcomed this engagement.

Question 6: To what extent do the risks outlined above reflect the likely impacts from the discontinuation of the MBA program?

In respect of the risks outlined in Section 5.1 in the Consultation, **nbn** agrees that they reflect the likely impacts from the discontinuation of the MBA program.

In particular with the launch of **nbn**'s Higher Speed Tier (**HST**) services, as well as the increase in the number of consumers using broadband for high quality video streaming and video-conferencing services during the COVID-19 pandemic, there is an important place for an independent broadband monitoring program which provides robust and independent speed and quality data.

Furthermore, **nbn** agrees with the ACCC's assessment that an alternative program delivering these outcomes would be unlikely to emerge in the absence of the MBA Program. The program provides the industry and the wider public independent and objective data on retail and wholesale service providers which reduces information asymmetry between RSPs and consumers.

nbn is highly supportive of the program continuing and ensuring consumers, industry and policy makers have access to high quality and relevant information on network and RSP performance.

Question 7: What other data or market-led tools could assist in promoting the outcomes that the MBA program has achieved, and are these sufficient to drive the consumer and market outcomes expected currently and into the future?

The current scope of the report is sufficient to drive the consumer and market outcomes expected from the program. However, as mentioned in the response to Question 4, there could be improvements that increase the value for money, most notably increasing the volunteer base to obtain a more robust and diverse sample.

Question 8: If the MBA program is extended to NBN Co's Fixed Wireless network how could the ACCC work with partners to build these cohorts quickly?

As previously discussed, **nbn** is supportive of Fixed Wireless being included in the MBA Program, provided an adequate explanation is given to explain what the performance metrics mean in practice and why they may vary from other fixed line technologies.

nbn suggests that the ACCC consider partnering with Better Internet for Rural, Regional and Remote Australia and other industry and community bodies such as Regional, Rural and Remote Communications Coalition to assist in building cohorts quickly in Fixed Wireless areas.

Question 9: Should an extended MBA program continue to focus solely on NBN services? What are the benefits in extending the program to capture competing networks? If so, should they be fixed-line only or seek to cover wireless home broadband services including those being deployed by mobile network operators as well?

The MBA Program should include non-**nbn** networks to the extent that they have a footprint and customer base to generate a sufficient sample size for inclusion in the program. **nbn** is not the only network serving many areas including many multi-dwelling units in metropolitan areas. Furthermore, in some geographic areas, most notably some new developments, customers are only served by a single non-**nbn** network. Including these other networks in the MBA Program will drive additional consumer benefits including:

- where consumers have a choice of networks consumers will be better informed as to the relative performance of the networks available; and
- developers will be able to make a more informed choice as to network performance when choosing which network operator to select to serve a new development.

nbn is strongly of the view that wireless home broadband services be included in the reporting as well. Public comments from major mobile network operators, some of which have already launched 5G Fixed Wireless services, suggest that 5G mobile and fixed wireless broadband are direct substitutes for **nbn** fixed line services.

If the ACCC were to extend the MBA Program reporting to these networks it must ensure that there is a large enough sample size of users for the results to be meaningful, as well as ensuring that these users are not biased through a service qualification process.

Question 10: The ADSL network has been used as comparator for NBN fixed-line services in MBA program reports. As ADSL is being displaced, what network or networks would be a suitable benchmark comparator to the NBN network?

Given that the build and migration phase of the **nbn** is largely complete, **nbn** considers that there is likely to be no significant benefit from including ADSL services in the program going forward. We think that non-**nbn** networks that are not being disconnected as part of the **nbn** rollout and migration, or networks that are either newly built or recently extended (such as TPG's FTTB network) should be used as a comparator network in the future.

Question 11: Which RSPs who are not currently being reported on could be considered for inclusion in an extended program, and why? How can sufficient volunteers be attracted to enable the proposed inclusion?

To the greatest extent practicable, the RSP inclusion should be representative of the retail market as a whole.

Question 12: What short- and long-term strategies could assist in promoting interest and continued engagement with the program to ensure that the panel accurately reflects the market as a whole?

No response.

Question 13: Are there any metrics that are not currently included in MBA reports that would provide valuable information to consumers and direct industry and policy responses?

nbn has no additional recommended metrics.

Question 14: Are there any further tests or reporting mechanisms that would assist in detecting systemic consumer experience or other network issues to promote their timely resolution? Is this test a cost-effective option?

nbn has no additional further tests or reporting mechanisms to suggest.

Question 15: In MBA Report 3, a comparison was made between MBA data from urban and regional Australia.

a) Are these geographic splits useful for industry and policymakers?

b) What other comparisons would be helpful for industry and policymakers in their decision making?

nbn does not believe these splits to be useful as the network should be considered on a national scale, however **nbn** is supportive of Fixed Wireless being included in the MBA Program subject to the considerations discussed earlier in this response.

Question 16: In regards to the MBA program data:

a) Is it sufficiently accessible and useful for consumers?

b) Is it likely that intermediaries, comparator service providers and other market participants will or are likely to make use of the data to help inform consumers?

c) How can we help to promote greater proliferation of the data to promote a better functioning of the market?

Any sharing of the MBA Program data should be considered in the context of the MBA Program's overall objectives. In this respect, **nbn** notes that some of the stated objectives are to assess the reasonableness of broadband speed claims and to improve consumer outcomes, understanding and transparency around the performance of high-speed broadband services. These objectives are aligned with promoting CX which also aligns with sharing the data with the underlying network operator so that **nbn** can improve and rectify issues at the network layer. Accordingly, to the extent that there are performance issues highlighted in the Quarterly Reports and the underlying MBA Program data, **nbn** would like to have greater access to the performance data to address the issues as they arise.

Question 17: MBA reports are released quarterly, including with a MBA Monthly Report that covers a period of three months and details the daily network level performance of each month.

a) Is this frequency sufficient?

The Quarterly Reporting could be just as effective if produced bi-annually, especially considering the frequency of the MBA Monthly Report and the additional reporting in the Critical Services Report.

Question 18: Is there value in harnessing SamKnows' international data to provide policymakers and the market with data on how Australia compares with these jurisdictions? If so, what measures are most important to compare and how could they be presented?

nbn questions whether international comparison in this manner falls within the original scope and purpose of the MBA Program.

Question 19: Is the current residential focus of the MBA relevant to small and medium businesses? Would a specific panel of business volunteers and the addition of new performance metrics provide data that is more relevant to their needs?

Any expansion of the program to business connections should apply equally to non-**nbn** business networks. This is important given the competitive nature of the business segment and the fact that business customers not only have a choice of RSP but a choice of several underlying high-speed broadband networks.

Question 20: For RSPs who offer services to small and medium enterprises, would you be willing to assist with expanding the program to measuring performance on business services?

Any expansion of the program to business connections should apply equally to non-**nbn** business networks.

Question 21: Are there any further enhancements to the testing methodology or testing infrastructure that would further promote the ongoing integrity and reliability of the MBA data and results?

A greater sample size would increase the reliability of the MBA Program data and results and allow more detailed analysis.

Question 22: The ACCC released a Statement of Expectations in August 2019 setting out a number of principles to provide assurance over the veracity and independence of the program.

a) Is this a sufficient safeguard against misuse of the program by RSPs?

b) Are there any further actions that should be taken, either through technical/methodological aspects of the program, or via stronger commitments from participants?

No response.

Question 23: Subject to safeguards being in place to protect the integrity and independence of the program, would RSPs be open to:

a) assisting the ACCC to build interest in the program among their customers to ensure monitored cohorts reflect the broadband market as accurately as possible, and network owners as part of nominating their network as benchmark comparator to the NBN?

b) deploying a software-based testing client, embedded into their customers' equipment, to expedite the growth of a broad reporting panel?

No response.