

12 September 2023

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Dear Mr Riordan and Mr Harding,

**RE:** ACCC Consultation Paper **(The Consultation Paper)** dated August 2023 and the Proposed Variation to the NBN Co Special Access Undertaking **(SAU)** dated August 2023.

**Background:**

More Telecom Pty Ltd (**More**) and Tangerine Telecom Pty Ltd (**Tangerine**) (collectively the **Business**) are retail service providers of the NBN. We wholly utilise Vocus as our network provider and as a result our services would be seen as Vocus services in any direct NBN market share statistics. The businesses were founded in 2013 and 2014 respectively, with the purpose of delivering cost effective broadband solutions both residential and small business users Australia-wide. Collectively, our Businesses, now serve 2.5% of NBNs market share, meaning over 210,000 homes and businesses use us to deliver their NBN service. Throughout 2023, we have been responsible for over 6% of NBNs new orders every month and expect to reach 3.5% market share by June 2024. The Businesses are also now 25% owned by Commonwealth Bank of Australia.

**Proposed Variation to the NBN Co Special Access Undertaking (SAU):**

As a business we have reviewed, The Consultation Paper and NBNCo's proposed SAU and we set out our opinion in the paragraphs below.

**Our position on proposed changes to SAU:**

It is our opinion that, if the proposed changes to SAU are implemented that the cost of broadband will increase and the quality will decrease for the majority of users. On top of this, there will be significant industry upheaval and cost.

Notwithstanding the price and quality impacts, our main concern is around our ability to implement and feed through the new pricing structure including price increases, to our existing 210,000 users with as little negative impact as possible. This ability is adversely affected by the short turnaround times and missing price certainty.

At the very least, if the ACCC agree to proceed with the variation to SAU our priority would be that they amend the timelines to achieve a more favourable outcome for all.

### **Increased Cost:**

We have modelled our future retail pricing on the proposed variation of SAU. Our entry level 25/10 plan will increase in cost by approximately \$'c-i-c' per month. We have in excess of 'c-i-c' users on this speed tier, mainly Australian families that are very cost conscious. Our 50/20 offering will increase by \$'c-i-c'. This is our most popular speed tier with over 'c-i-c' users active. I appreciate that there will be some price reductions on the higher speed tiers, but collectively we only have 'c-i-c' active users on these. This tells me that the Australian public either don't have a desire for faster speeds or simply do not have the ability to pay more for those services.

### **Decrease in quality:**

The removal of national pooling of CVC will cause a reduction in the quality and a requirement to overprovision more bandwidth across the different speed tiers. The dual model of removing CVC on the 100Mbps speed and above versus the 50Mbps speeds and below will mean ISPs lose some economies of scale. Over recent years the industry made great strides in offering an improved service where households no longer had "buffering issues" but we fear these could return with this new model.

### **Overly complicated:**

We believe the proposed variation to SAU will leave the market in a more complicated position to navigate than it is today. Our original hope was for it to be streamlined. The 50/20 speed tier could be included with the 100/20 and above, where CVC is being abolished. This would then leave the 12 and 25 tiers to be easily phased out, leaving one simplified model for the industry moving forward. This could still deliver an increase in cost at the 50/20 speed tier (which the ACCC have previously noted as reasonable) at wholesale, as well as incentivise customers to take up faster speed tier offerings which appears to be a goal for NBNCo.

### **Timeline:**

Despite the drawbacks mentioned above, we appreciate that significant work has already gone into this process and a resolution is required for both NBN and the industry. Should the ACCC decide that it is in the best interest to accept the proposed variation to SAU, then it is of paramount importance to consider the implications of such a tight deadline.

Launching a new pricing model on December 1<sup>st</sup> seems non-sensical to us and risks putting a whole industry, as well as the entire population, into an unnecessary period of panic. This deadline is far too rushed in our opinion and does not reconcile with operational reality.

- To vary prices for our customers, we are required to give them at least 30 days notice. That means we would need to give them notice on 1<sup>st</sup> November 2023 at the very latest. That is only 7 weeks from when this industry consultation period finishes. Once the decision is handed down from ACCC we enter a period of negotiation with our upstream network provider (Vocus) which will take weeks. The timelines clash. Unfortunately, being a smaller provider, we do not have the funds or resources to absorb the price rise. As an example, if we took a broad-brush average and said we would have 150,000 users increasing cost by \$6 that would equal a loss of \$900,000 per month. This simply means we must pass on any cost increases immediately as we receive the increased prices from NBN.

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- The industry and the public would benefit significantly if there was a phase-in period where the 100/20 and above tiers reduced in price before the 50/20 and below increased in price at a later stage. This would give the industry time to launch offers and promotions to move customers to a better quality home broadband offering. In practice a window of 3-6 months to gradually entice users to move to the 100/20 speed and above would be workable. If all these changes come in on the same day (1<sup>st</sup> December) we won't have the opportunity to nudge customers and they will simply receive price rise notifications, panic and be forced to do their own research. This will result in customers paying more for their broadband.
- Moving the high usage customers to 100/20 and above will be absolutely critical to network quality should the proposed changes to SAU occur. Given NBN are yet to provide this data, there is no way upgrades will happen fast enough to protect quality. It will result in an inferior network quality for the bulk of our customers (50/20 and below). We require the usage data from NBN and then time to tactically move customers off the lower speed tiers to 100/20 or above to maintain network quality.
- Our network provider are unable to bill the floor and ceiling pricing model to us and they've admitted there is no chance of this being ready by 1<sup>st</sup> December 2023.
- Given NBN will be billing via a new method for 50/20 services and below, we would like them to be providing us with test billing data now (prior to the changes being implemented), so that we can actually see our current individual users and how their billing would look on the proposed new floor and ceiling pricing model.
- The telecommunications industry goes into a widespread embargo or holiday shut down. It is highly risky to launch new network management or billing solutions at this time of year.

### **Our suggestion:**

If the plan construct proposed by NBN is going to be accepted by the ACCC, our suggestion around the timeline for implementation of the variation to SAU would be to proceed on 1<sup>st</sup> December 2023 but only implement as follows:

- Changes for the 100/20 speed tier and above to be implemented on 1<sup>st</sup> December 2023. The work required for us to implement the changes required for 100/20 and above are significantly easier for an RSP and end user to roll out by 1<sup>st</sup> December.
- Delay the proposed changes to 50/20 speed and below until 1<sup>st</sup> April 2024. During this delay, NBN be required to provide their RSPs with usage data for all users on these speed tiers so that the RSP can target upgrade offers to them.

This would serve as a redundant bill run allowing NBNC<sub>o</sub> to test this new billing method and give the industry time to implement their own billing and audit processes. It would also allow time for RSPs to educate the market on more suitable pricing options rather than rushing out a massive change for the sake of hitting a deadline. We alone have over 'c-i-c' users that will be negatively impacted and putting this in front of them just before Christmas, during the period of the most extreme rise in cost of living in recent history seems to lack common sense.

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The above suggestions will improve competition in the market, end up delivering a better-quality broadband for end users and reduce the chances of smaller ISPs having significant margin erosion without time to rectify.

I am happy to discuss further or take any questions should that be useful.

Kind regards

*Andrew Branson*

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