



18 December 2019

Graeme O'Leary
Director, Communications Group
Australian Competition & Consumer Commission
grahame.oleary@acc.gov.au

Dear Mr O'Leary,

nbn response to ACCC Facilities Access Code Review – Draft Report

Thank you for the opportunity to respond to the Facilities Access Code Review Draft Report (**the Report**). The ACCC's final proposals represent a reasonable and pragmatic solution to streamline issues that have been raised as a result of regional mobile and wireless rollout activity.

nbn intends to respond to the amendments the ACCC has proposed as set out on page 23 of the Report, noting there are some small points of difference to the discussion points in the body of the document.

Pre-Build Consultation Process

nbn supports the proposed subclause at clause 4.5. **nbn** is particularly pleased the new provision is not made mandatory and is appropriately directed to Towers and/or Tower Sites.

nbn notes the ACCC's proposed amendment to clause 3.2. **nbn** does not believe this is necessary for Underground Facilities but is comfortable that this will adequately address the issues the ACCC has flagged as their main point of concern for Towers given the issues that triggered the ACCC to review the Code in the first instance were initially raised about regional mobile deployment. **nbn** would like to suggest that alternative wording be included to Clause 3.2:

*The First Carrier must, when requested by a Second Carrier, provide within fifteen Business Days, general information in relation to the type and location of Eligible Facilities **and, where relevant, any plans to establish new Eligible Facilities Towers and/or Tower Sites** in a particular Postcode Area and, on request, use its reasonable endeavours to provide further information, as required, that may be relevant to a Second Carrier's decision to seek access.*

Queuing Process

nbn will support the proposed additions to subclause 2.3 (3) of the Code as they are drafted in page 23 of the Report and believes that a 24-month maximum reservation period can be worked with.

nbn would however like to clarify the best means by which to implement the introduction of this new requirement. **nbn** proposes that existing reservations in a Carrier's queue at the time of the ACCC's publication of the new Code either:

1) be grandfathered; or



2) the maximum timeframe for all access applications in train be reset from the time of Code publication.

It would not be reasonable and potentially detrimental to existing Carrier deployment plans to apply this time limit to applications that have been waiting in a Carrier's queue from a previous date.

Written confirmation to complete End Processes

nbn supports the addition of this clause to Annexure A Schedule A1.9, A2.1.4, A2.2.4 and Annexure B Schedule B1.9 and B2.4.

As noted in the clause itself, there is still scope for a different timeframe by which the Second Carrier must provide written notification to be negotiated within commercial agreements between the First and Second Carriers where required. **nbn** believes 20 Business Days is a reasonable minimum requirement to be included within the Code itself.

Next steps

We would be grateful if the ACCC could advise its stakeholders of the timing of its next steps to close review and publish a final Code. Given there will be some impact felt by all Carriers as a result of the ACCC's final amendments, **nbn** encourages the ACCC to consider a delayed implementation period of at least six months before the new clauses come into effect.

Should you require any clarification on our response above, we would be pleased to discuss with you further. Please contact Xanthe Corbett-Jones at xanthe.corbett-jones@nbnco.com.au for more information.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'J. Crichton', is positioned below the 'Yours sincerely' text.

Jennifer Crichton
Executive General Manager, Head of Regulatory, **nbn**