



24 November 2017

Grahame O'Leary  
Director  
Communications Group  
Australian Competition & Consumer Commission

Dear Grahame,

## **nbn submission to ACCC consultation on the Audit of Telecommunications Infrastructure Assets Record Keeping Rules**

**nbn** welcomes the opportunity to respond to the ACCC's consultation paper on the Audit of Telecommunications Infrastructure Assets Record Keeping Rules (Infrastructure RKR).

**nbn** has been reporting under the Infrastructure RKR since being included as a reporting entity in 2013. During 2013 – 2015, **nbn** provided reports identifying our fibre to the premises (FTTP) and fixed-wireless technology. In 2016, **nbn** included fibre to the basement (FTTB) and fibre to the node (FTTN) in its report and in 2017 hybrid fibre coaxial (HFC) and Satellite were included. Throughout our five years of reporting we have worked with the ACCC to ensure reports meets the requirements of the Infrastructure RKR. **nbn** has also engaged with the ACCC to provide additional explanatory material as requested by the ACCC.

As outlined in the *Competition and Consumer Act 2010 (CCA)*, the ACCC must not exercise its power to make a record keeping rule (RKR) unless the information recorded under the RKR is relevant to the operation of parts of the CCA or other specified legislation.<sup>1</sup> In practice, this should necessitate the ACCC setting out a clear articulation of how the information collected under an RKR is likely to assist the ACCC in exercising its regulatory functions. **nbn** does not consider the proposed changes to the Infrastructure RKR, particularly those in relation to geographic information of network boundaries, FTTB reporting and fixed wireless reporting are sufficiently supported by a clear purpose and rationale.

Based on our understanding of the proposed amendments to the Infrastructure RKR, **nbn** considers it is already providing the ACCC with information consistent with the proposed amendments in relation to geographic boundaries of CAN modules and FTTB equipment location. **nbn** does not believe that any changes are required to the reports we currently provide to the ACCC. If the ACCC ultimately decides that **nbn**'s current reporting needs to be varied, we will require sufficient time to amend our report in order to meet the ACCC's requirements. In relation to the proposed amendment to include information on the radiofrequency spectrum for fixed wireless infrastructure, **nbn** considers

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<sup>1</sup> *Competition and Consumer Act 2010*, s 151BU(4)





this information should only be required for mobile services. **nbn** supports the addition of larger Superfast Broadband Access Service (SBAS) and Local Bitstream Access Service (LBAS) providers to the list of record keepers under the Infrastructure RKR.

Geographic information identifying customer access network boundaries

The ACCC proposes to amend rule 5(2)(b)(iv) of the Infrastructure RKR to require the geographic boundary of CAN modules (for **nbn** services this will include Serving Area Module boundaries) to be specified by record keepers.<sup>2</sup>

[c-i-c start

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

c-i-c end]

The ACCC notes:

*“ NBN Co currently provides records of its infrastructure assets by technology type including FTTP, FTTN, FTTB, HFC, wireless and satellite. However, NBN Co does not provide the geographic boundary information for serving access modules (SAMs) that contain the different access technologies.”<sup>3</sup>*

**nbn** does not understand the above statement by the ACCC, as geographic boundary information *is* provided on all in-service SAMs. [c-i-c start

[REDACTED]

[REDACTED]

[REDACTED]

c-i-c end] It is unclear to

**nbn** what additional information the ACCC is seeking in the quote included above, and we would like to discuss this point further to identify what is intended.

In any event, **nbn** submits the information currently reported is sufficient to meet the requirements of the ACCC’s stated purpose of “identifying rollout regions” and “monitoring of **NBN Co’s** roll out.” **nbn** considers enough geographic information is provided to allow the ACCC to relate **nbn’s** rollout to Telstra’s copper network and ESAs.<sup>4</sup>

If the ACCC considers additional geographic information is required, **nbn** seeks clarity on the intended purpose and rationale of the amendments to rule 5(2)(b)(iv) of the Infrastructure RKR.

Clarification on FTTB reporting

The ACCC proposes to amend Rule 5(2)(b)(iii) of the Infrastructure RKR to require the location of FTTB equipment to be specified by record-keepers.<sup>5</sup>

<sup>2</sup> ACCC, Audit of Telecommunications Infrastructure Assets – Record Keeping Rules consultation paper, 24 October 2017, p 11

<sup>3</sup> ibid

<sup>4</sup> Ibid

<sup>5</sup> Ibid, p 10-11





**nbn** submits that it is already providing information on the geographic location of FTTB equipment, including FTTB equipment located inside multi-dwelling units or multi-premises sites. If the ACCC believes that additional information is required from **nbn** in relation to FTTB equipment, we would appreciate further discussion on this point. If there are other access providers that are not yet reporting the location of FTTB equipment, **nbn** supports an amendment to the Infrastructure RKR to require them to do so.

#### Additional reporting on fixed wireless sites

The ACCC proposes to amend Rule 5(2)(b)(iii) of the Infrastructure RKR to require record-keepers to identify the frequency band of the radiofrequency spectrum used to deploy the radio access service to be specified by record-keepers but has not explained the rationale for this amendment.<sup>6</sup>

**nbn** currently reports on its fixed wireless infrastructure, including the location of its fixed-wireless sites, and the geographic coverage of its network. **nbn** does not provide information on the radiofrequency spectrum used. While radiofrequency information on mobile services may be relevant to the ACCC's inquiries on domestic mobile roaming, **nbn** does not see the same utility in the ACCC's collecting radiofrequency information for fixed wireless services. **nbn** submits the additional information on radiofrequency should be limited to mobile services, and not apply to fixed wireless services.

The ACCC has also not outlined its rationale for seeking additional information on mobile sites (including information on Site Code and Site ID Number)<sup>7</sup>, **nbn** submits that additional information should not be required without a clear rationale for its collection.

#### Addition of certain LBAS and SBAS providers

The ACCC proposes to include Larger<sup>8</sup> (SBAS) and (LBAS) providers as record keepers.<sup>9</sup> **nbn** supports the ACCC's view that collecting infrastructure information from these providers would provide a more complete picture of telecommunications infrastructure. In addition, **nbn** notes other large providers of these services are required to report under the Infrastructure RKR.<sup>10</sup>

#### Definitions

The definition of SAM is "Serving Area Module", not "Service Area Module"<sup>11</sup> as noted in the amended RKR.

The definition of Fibre to the curb (FTTC) should be amended as follows to accurately reflect the elements of an FTTC network<sup>12</sup>:

"Fibre to the curb (FTTC) means a combination of optical fibre and copper is used in the CAN to connect the end-user to the core network. Optical fibre is delivered to a telecom pit outside a premise to an underground pit or

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<sup>6</sup> p 10

<sup>7</sup> Ibid, p 12

<sup>8</sup> With 'Larger' being defined as those with 12,000 or more services. Ibid, p 12

<sup>9</sup> Ibid, p 7

<sup>10</sup> For example, Telstra, TPG and Vocus

<sup>11</sup> Ibid, p 15

<sup>12</sup> Ibid, p 14





*pole location* where it then connects with a Distribution Point Unit (DPU). The existing copper is then used to deliver services from the DPU to the end-user.”

The amendment to the definition of ‘Geographic extent’<sup>13</sup> is not directly relatable to **nbn** because as per the discussion above, [c-i-c start  
c-i-c end]

#### Timing

**nbn** notes that any changes to **nbn**’s existing report will require **nbn** to implement IT changes and incur additional costs in relation both IT changes and the preparation of any additional reporting. For example if the amendments required **nbn** to provide SAM boundaries linked to the different technologies, this would result in **nbn** needing to amend its existing systems to capture and extract this information. As noted above, this linkage between SAM and technology type currently does currently exist in **nbn**’s infrastructure database (and there would be no currently identified utility for **nbn** in its database doing so). **nbn** is not able (on the basis of the information provided by the ACCC in the consultation paper) to scope the costs that would be involved in any changes but having regard to the costs that have been involved in previous changes, e.g. to add HFC and satellite infrastructure, the costs will not be insignificant.

Given the next reporting date is 31 January 2018, **nbn** would not be in a position to amend its systems to provide a varied report by this time. In previous reporting cycles, the inclusion of an extra technology (for example adding HFC to report in 2017) required around [c-i-c] to amend the tools that perform the database query and extraction and to conduct testing to ensure the report outputs met the Infrastructure RKR requirements. As any amendments the ACCC makes to the Infrastructure RKR will require an appropriate time for implementation, so that **nbn** suggests that if any amendments are made the reporting date for 2017/18 should not be any earlier than September 2018.

**nbn** would welcome a discussion on the matters raised in this submission.

Yours sincerely

A handwritten signature in blue ink that reads 'Caroline Lovell'.

Caroline Lovell  
Chief Regulatory Officer

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<sup>13</sup> Ibid