



Review of the National Broadband Network Services in Operation Record Keeping Rules and NBN Wholesale Market Indicators Report

Consultation Paper

June 2017



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1 Introduction

1.1 Purpose

The purpose of this consultation paper is to seek views from interested stakeholders on the Australian Competition and Consumer Commission's (ACCC) review of the National Broadband Network Services in Operation Record Keeping Rules (NBN SIO RKR). The ACCC is also seeking the views of stakeholders on the Disclosure Direction issued to NBN Co in relation to data obtained under the NBN SIO RKR. The information provided by NBN Co under the Disclosure Direction forms the basis of the NBN Wholesale Market Indicators Report.

1.2 Reasons for review

NBN Services in Operation RKR

The current NBN SIO RKR is due to expire on 30 September 2017. The NBN SIO RKR was made for the first time in September 2014 pursuant to section 151BU of the *Competition and Consumer Act 2010* (CCA). NBN Co provided its first quarterly report under the RKR in January 2015. The ACCC is considering whether the RKR should be extended, varied and extended or allowed to expire.

Disclosure Direction

On 18 March 2016 the ACCC issued NBN Co with a Disclosure Direction under s151BUC of the CCA. The Disclosure Direction requires NBN Co to provide specified tables of information from the reports required under the RKR. The quarterly public report titled 'NBN Wholesale Market Indicators Report' was first released by the ACCC on 29 April 2016. The ACCC is also considering the Disclosure Direction in parallel with the review of the NBN SIO RKR on which it is based.

1.3 Submission process

Submissions should be provided by **5.00pm on Friday 28 July 2017**.

Submission of commercial-in-confidence material

All submissions will be considered by the ACCC as public submissions and will be posted on the ACCC website. Interested parties wishing to submit commercial-in-confidence material to the ACCC should submit both a public version and commercial-in-confidence version of their submission. The ACCC has issued a guideline setting out the process parties should follow when submitting confidential information to communications inquiries commenced by the ACCC. The guideline is available on the ACCC website at:

<http://www.accc.gov.au/publications/communications-inquiries-submitting-confidential-material>

Contact officer and submission lodgement details

Inquiries in the first instance should be directed to Grahame O'Leary at (02) 9230 3832.

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2 The NBN Services in Operation RKR

2.1 Regulatory framework

Under section 151BU of the CCA, the ACCC can make record keeping rules (RKR). Sections 151BUA, 151BUB and 151BUC of the CCA give the ACCC the power to disclose, or to require carriers or carriage service providers to disclose reports, or extracts of reports, prepared in accordance with an RKR.

The current NBN SIO RKR is at [Attachment A](#). The current Disclosure Direction is at [Attachment B](#).

2.2 Background

In September 2014, the ACCC issued the NBN SIO RKR to NBN Co requiring it to provide information on the number of Access Virtual Circuit (AVC) services in operation, the amount of Connectivity Virtual Circuit (CVC) capacity being acquired and average CVC utilisation over the NBN.

The NBN SIO RKR provides oversight of NBN services being offered and allows the ACCC to monitor how competition is developing over the NBN. NBN Co is operating on a wholesale only basis and is a monopoly provider requiring ACCC oversight to ensure the terms and conditions of access are in the long term interest of end-users (LTIE). The NBN SIO RKR facilitates this by providing information on the rate and level of take up of different NBN access services, as well as the individual components of those services and the resulting market shares. The Disclosure Direction further increases transparency by requiring NBN Co to provide a summary of information collected under the RKR to the ACCC, which is published on the [ACCC website](#).

In addition, the information supplied by NBN Co under the NBN SIO RKR will be used in considering the scope and extent of declared services such as the Domestic Transmission Capacity Service and legacy declared services such as the Unconditioned Local Loop Service.

The NBN SIO RKR requires NBN Co to report on the following aspects of the NBN rollout:

- the total number of AVCs by traffic class, speed tier, point of interconnect (POI), POI location and access seeker for each access technology
- the total number and amount of CVC acquired by each access seeker by POI, POI location, and traffic class, and
- average CVC utilisation by traffic class for each access seeker at a POI over various periods.

2.3 Extending the RKR

Clause 12 of the NBN SIO RKR provides the ACCC with the ability to extend the RKR by giving written notice to NBN Co. Following NBN Co's release of new access services, the ACCC provided written notice to NBN Co to extend the RKR on three occasions:

- 12 February 2015 to cover the commercial launch of NBN Co's Fibre to the Building (FTTB) network access services
- 20 October 2015 to cover the commercial launch of NBN Co's Fibre to the Node (FTTN) network access services, and

- 4 July 2016 to cover the commercial launch NBN Co's Satellite network and Hybrid Fibre Coaxial (HFC) network access services.

In any varied NBN SIO RKR the ACCC proposes to retain a clause similar to the existing clause 12 to allow the incorporation of any new access technologies introduced by NBN Co in the future such as Fibre to the Curb (FTTC).

2.4 Disclosure Direction

In July 2015 the ACCC released a discussion paper proposing publication of an NBN Wholesale Market Indicators Report. Following that consultation the ACCC, pursuant to subsection 151BUC(2) of the CCA, issued a Disclosure Direction to NBN Co in March 2016 requiring it to provide public tables for publication on the ACCC website.¹ This is known as the NBN Wholesale Market Indicators Report.

The purpose of the report is to provide visibility, on a quarterly basis, of the development of the wholesale market for NBN access services. The data that is included in the report is prepared by NBN Co and collected pursuant to the NBN SIO RKR. NBN Co is required to provide the reports quarterly at the same time as it provides the required data under the NBN SIO RKR.

The Disclosure Direction currently requires NBN Co to report on various categories of information including the:

- number of AVCs for each access technology type and traffic class
- total CVC capacity by state grouping and CVC traffic class
- number of access seeker groups at each POI
- number of broadband AVCs (traffic class 4) where an access seeker group has more than 5 per cent of the services, and
- number of AVCs by speed tier, state grouping and metropolitan/regional designation for each access seeker group with more than 5 per cent of services.

3 Matters for consultation

To assist its consideration of whether to extend, or to vary and extend the NBN SIO RKR, the ACCC is seeking views from interested parties on the following matters.

3.1 Continued operation of the NBN SIO RKR

The NBN SIO RKR is due to expire on 30 September 2017. The ACCC has considered whether the RKR should be allowed to expire, but is of the view that the RKR remains necessary to assist the ACCC in regulating access to the NBN and performing its regulatory functions under Parts XIB and XIC of the CCA.

If the ACCC extends the NBN SIO RKR, NBN Co will be required to report the same types of data it currently reports. The access technologies which have been incorporated into the RKR by way of notice since the RKR has been in operation will also be incorporated.

¹ <https://www.accc.gov.au/regulated-infrastructure/communications/national-broadband-network-nbn/nbn-wholesale-market-indicators-report/reports>

The ACCC asks submitters to specify whether the NBN SIO RKR should be extended or extended and varied and the reasons for their views. Submissions should also include details about the proposed length of the extension.

The ACCC's preliminary view is that the RKR should be extended for a further three year period but is interested in considering other views from stakeholders.

3.2 Variation of the RKR

The ACCC may extend and vary the RKR to incorporate additional information that is relevant to one of the matters specified under sub-section 151BU(4), including information relevant to the regulatory functions under Parts XIB and XIC.

The ACCC is seeking views from interested parties as to whether additional information should be included in the NBN SIO RKR. The ACCC has identified further information that may assist its regulatory functions under Parts XIB and XIC, which are set out below.

(a) AVCs per CVC link

The ACCC seeks views on whether further information relating to the amount of CVC capacity acquired by each access seeker group should be reported by NBN Co. Clause 9 of the RKR sets out the current requirements for reporting on CVC services at each POI. The ACCC notes that where an access seeker has multiple CVC services at a POI, NBN Co is required to report on each link (clause 10).

The ACCC is considering whether to vary the RKR to require NBN Co to report on the number of AVCs per CVC link at each POI to provide more granularity of demand information.

(b) CVC capacity

Paragraphs 9(g) through to 9(l) of the RKR require NBN Co to report on different aspects of CVC utilisation during different times of the day across the traffic classes. This includes average utilisation for CVC in respect of different services. The ACCC is considering whether to include an additional requirement for NBN Co to provide information identifying when utilisation by an access seeker exceeds a certain capacity for a CVC link over a particular period. For example, NBN Co could be required to identify when an access seeker exceeds 95 per cent capacity for a CVC link on an hourly, daily or weekly basis. This information would provide the ACCC with visibility of access seeker traffic management behaviour.

(c) Reporting periods

NBN Co currently reports under the RKR on a quarterly basis. The ACCC is interested in views from stakeholders as to whether more frequent reporting (for example monthly) by NBN Co would provide a more detailed snapshot of competition over the NBN. Specifically, the ACCC is interested to understand whether more frequent reporting would enable the ACCC to more closely monitor changes to AVC - CVC utilisation and the impact of CVC pricing changes on the provisioning behaviour of access seekers (such as the recent introduction of discounts to CVC pricing by NBN Co on 1 June 2017).

3.3 Disclosure Direction

If the NBN SIO RKR is extended, or varied and extended, the ACCC will also need to determine whether a new Disclosure Direction should be issued to NBN Co for the ACCC to

continue to publish the NBN Wholesale Market Indicators Report. The ACCC is interested in views as to whether more information could be published under the Disclosure Direction.

Under the current Disclosure Direction, the sum of acquired CVC capacity is provided by state grouping and by CVC traffic class under Table 2 of the NBN Wholesale Market Indicators Report. The ACCC considers that publication of the average CVC per AVC for each access technology is one metric that would provide transparency of how access seekers are configuring their networks to deliver NBN services. This further information could be published on a state (as opposed to state groups) or individual POI basis.

In addition to the average CVC per AVC data, further information relating to CVC utilisation rates by access seeker groups would also provide transparency.

The ACCC is also open to considering a lower threshold for naming access seeker groups in the relevant tables in the Disclosure Direction. For example, the threshold could be reduced from 5 per cent to 1 per cent of the AVCs per network access service, or alternatively, set to a minimum number of access services (such as 1,000). Identifying more RSPs through a reduced threshold may promote competition through increased transparency as to the level of competition developing on the NBN. A further alternative could be the publication of additional tables outlining the number of AVCs acquired for each network access service on a POI basis. The ACCC would welcome submissions on further transparency measures that would promote competition.

4 Conclusion

The NBN SIO RKR came into operation in 2014. In April 2016 the NBN Wholesale Market Indicators Report was also first released. The Wholesale Market Indicators Report is widely anticipated by industry, government and media and provides transparency on the level of competition developing over the NBN.

The ACCC considers that the NBN SIO RKR should be extended and invites comment on whether stakeholders agree with that view, and if so, whether three years or another period should be specified. The ACCC also seeks views from stakeholders on whether the NBN SIO RKR should be extended in its current form, or extended and varied. The ACCC considers that further information in relation to CVC links and utilisation rates would assist the ACCC to monitor the development of competition over the NBN and enable it to perform its regulatory functions under Parts XIB and XIC.

In addition, the ACCC seeks views from stakeholders on whether further granularity of information should be publicly disclosed under a new Disclosure Direction, including whether information on average CVC capacity acquired per AVC by access seekers for each access technology should be made public.

After considering submissions from stakeholders, the ACCC will make a decision on whether to extend or extend and vary the NBN SIO RKR. If the ACCC decides to vary the information required, it will engage in a further short consultation on the proposed RKR instrument. Following the finalisation of the RKR the ACCC will then consult on the Disclosure Direction with NBN Co for a period of 28 days as required under s151BUC(6) of the CCA.

Questions on which the ACCC seeks views:

1. Should the ACCC extend the operation of the NBN SIO RKR?
2. If so, for how long should the ACCC extend the NBN SIO RKR?
3. Should the ACCC vary the NBN SIO RKR and if so, what modifications or additions should be made to the RKR?
4. Should NBN Co provide information under the NBN SIO RKR on CVC capacity including the number of AVCs per CVC link for each access seeker group at each POI?
5. Should NBN Co report by state rather than by state group?
6. NBN Co currently reports on CVC utilisation rates over the reporting period as well as during peak periods. Should NBN Co also specifically report on CVC utilisation rates where an access seeker exceeds a specified limit (for example 95 per cent) during particular periods (e.g. hourly, daily, weekly) at each POI?
7. Should NBN Co report to the ACCC on a more frequent basis?
8. Should the ACCC reissue the Disclosure Direction to NBN Co if the Rules are extended?
9. Are there any changes that should be made to the Disclosure Direction?
10. Should the Disclosure Direction require NBN Co to provide information on the average CVC to AVC ratio for each access seeker group (including by POI and by traffic class)?
11. The Disclosure Direction currently does not require NBN Co to provide information on CVC utilisation rates as currently reported under the NBN SIO RKR. Should the Disclosure Direction be amended to require NBN Co to provide CVC utilisation rates?
12. On what basis should information on CVC utilisation be provided and disclosed (for example, on a peak and non-peak basis for each access seeker group, network access technology and POI)?
13. Should the threshold for identification of an access seeker group for each network access technology be reduced from 5 per cent to 1 per cent, or by count of SIOs such as 1,000? Should this be applied on a POI basis?

NBN Services in Operation
Record Keeping and Reporting Rules

Section 151BU

Competition and Consumer Act 2010

Australian Competition and Consumer Commission

August 2014

TITLE

- (1) These rules made by the Australian Competition and Consumer Commission (ACCC) pursuant to section 151BU of the *Competition and Consumer Act 2010* (CCA) may be referred to as the NBN Services in Operation Record Keeping and Reporting Rules (Rules).

COMMENCEMENT AND EXPIRY

- (2) These Rules shall take effect from 1 October 2014 and expire on 30 September 2017.

APPLICATION

- (3) These Rules apply to NBN Co Limited (ACN 136 533 741) (NBN Co).

INTERPRETATION

- (4) The following terms have the meaning set out in this clause.
 - (a) **'Access Seeker'** has the same meaning as in section 152AG of the CCA.
 - (b) **'ACCC'** means the Australian Competition and Consumer Commission.
 - (c) **'AVC'** means access virtual circuit as defined in an applicable Standard Form of Access Agreement.
 - (d) **'CCA'** means the *Competition and Consumer Act 2010* (Cth).
 - (e) **'CVC'** means connectivity virtual circuit as defined in an applicable Standard Form of Access Agreement.
 - (f) **'Existing Network Access Services'** mean FTTP access services, Interim Satellite access services and Wireless access services.
 - (g) **'FTTP'** means the fibre to the premises network used by NBN Co to supply the product defined as the NBN Co Ethernet Bitstream Service over Fibre in an applicable Standard Form of Access Agreement.
 - (h) **'Interim Satellite'** means the interim satellite network used by NBN Co to supply the product defined as the NBN Co Interim Satellite Service in an applicable Standard Form of Access Agreement.
 - (i) **'New Network Access Service'** means a service supplied by NBN Co over a customer access network which is not an Existing Network Access Service and is not a network access service subject to any other record keeping rule made by the ACCC.
 - (j) **'POI'** means point of interconnection as defined in an applicable Standard Form of Access Agreement.

- (k) **'Product Component'** and **'Product Feature'** have, in respect of a network access service the same meanings as in the applicable Standard Form of Access Agreement for the network access service.
 - (l) **'Reporting Date'** means the last day of a calendar quarter (i.e. 31 March, 30 June, 30 September, 31 December).
 - (m) **'Rule'** means the *NBN Co Services in Operation Record Keeping and Reporting Rule*.
 - (n) **'Service in Operation' or 'SIO'** refers to an active telecommunications service being supplied by NBN Co to an Access Seeker.
 - (o) **'Standard Form of Access Agreement'** refers to NBN Co's standard forms of access agreement, published on its website, that relate to the supply of the relevant products and services to Access Seekers.
 - (p) **'TC-1'** means AVC traffic class 1 and CVC traffic class 1 (as applicable) as defined in an applicable Standard Form of Access Agreement.
 - (q) **'TC-2'** means AVC traffic class 2 and CVC traffic class 2 (as applicable) as defined in an applicable Standard Form of Access Agreement.
 - (r) **'TC-4'** means AVC traffic class 4 and CVC traffic class 4 (as applicable) as defined in an applicable Standard Form of Access Agreement.
 - (s) **'Wireless'** means the fixed wireless network used by NBN Co to supply the product defined as the NBN Co Ethernet Bitstream Service over Wireless in an applicable Standard Form of Access Agreement.
- (5) Unless the contrary intention appears, an expression used in these Rules that is also used in the CCA has the same meaning in these Rules as it does in the CCA.

RECORD KEEPING RULES

Record keeping rules for FTTP access services

- (6) For each POI at which it offers FTTP access services, NBN Co must establish and maintain an electronic record containing the following information:
- (a) The name of the POI.
 - (b) The state or territory in which the POI is located.
 - (c) The name of each Access Seeker being provided with FTTP access services at the POI.
 - (d) The total number of FTTP access service AVCs supplied in TC-1, grouped by data transfer rate 'tier' as specified in NBN Co's applicable Standard Form of Access Agreement, for each Access Seeker at the POI.
 - (e) The total number of FTTP access service AVCs supplied in TC-2, grouped by data transfer rate 'tier' as specified in NBN Co's applicable Standard Form of Access Agreement, for each Access Seeker at the POI.
 - (f) The total number of FTTP access service AVCs supplied in TC-4, grouped by data transfer rate 'tier' as specified in NBN Co's applicable Standard Form of Access Agreement, for each Access Seeker at the POI.

Record keeping rules for Wireless access services

- (7) For each POI at which it offers Wireless access services, NBN Co must establish and maintain an electronic record containing the following information:
- (a) The name of the POI.
 - (b) The state or territory in which the POI is located.
 - (c) The name of each Access Seeker being provided with Wireless access services at the POI.
 - (d) The total number of Wireless access service AVCs supplied in TC-1, grouped by data transfer rate 'tier' as specified in NBN Co's applicable Standard Form of Access Agreement, for each Access Seeker at the POI.
 - (e) The total number of Wireless access service AVCs supplied in TC-4, grouped by data transfer rate 'tier' as specified in NBN Co's applicable Standard Form of Access Agreement, for each Access Seeker at the POI.

Record keeping rules for Interim Satellite access services

- (8) For each POI at which it offers Interim Satellite access services, NBN Co must establish and maintain an electronic record containing the following information:
- (a) The name of the POI.
 - (b) The state or territory in which the POI is located.
 - (c) The name of each Access Seeker being provided with Interim Satellite access services at the POI.

- (d) The total number of Interim Satellite access service AVCs supplied in TC-1, grouped by data transfer rate 'tier' as specified in NBN Co's applicable Standard Form of Access Agreement, for each Access Seeker at the POI.
- (e) The total number of Interim Satellite access service AVCs supplied in TC-4, grouped by data transfer rate 'tier' as specified in NBN Co's applicable Standard Form of Access Agreement, for each Access Seeker at the POI.

Record keeping rules for CVCs

- (9) For each POI, NBN Co must establish and maintain an electronic record containing the following information:
 - (a) The name of the POI.
 - (b) The state or territory in which the POI is located.
 - (c) The name of each Access Seeker being provided with CVC services in connection with Existing Network Access Services at the POI.
 - (d) The contracted CVC TC-1 capacity in Mbps for Existing Network Access Services for each Access Seeker at the POI.
 - (e) The contracted CVC TC-2 capacity in Mbps for Existing Network Access Services for each Access Seeker at the POI.
 - (f) The contracted CVC TC-4 capacity in Mbps for Existing Network Access Services for each Access Seeker at the POI.
 - (g) The average utilisation in Mbps for contracted CVC TC-1 capacity for Existing Network Access Services between 7:00pm and 10:00pm daily for each Access Seeker at the POI.
 - (h) The average utilisation in Mbps for contracted CVC TC-2 capacity for Existing Network Access Services between 9:00am and 5:00pm daily for each Access Seeker at the POI.
 - (i) The average utilisation in Mbps for contracted CVC TC-4 capacity for Existing Network Access Services between 7:00pm and 10:00pm daily for each Access Seeker at the POI.
 - (j) The average utilisation in Mbps for contracted CVC TC-1 capacity for Existing Network Access Services for each Access Seeker at the POI.
 - (k) The average utilisation in Mbps for contracted CVC TC-2 capacity for Existing Network Access Services for each Access Seeker at the POI.
 - (l) The average utilisation in Mbps for contracted CVC TC-4 capacity for Existing Network Access Services for each Access Seeker at the POI.
- (10) If NBN Co supplies an Access Seeker with multiple CVCs at a given POI, NBN Co must establish and maintain a separate record as required under Rules 9(d) to (l) for each CVC.

- (11) The obligation to record CVC utilisation under Rules 9(d) to (l) and 10 is satisfied by NBN Co measuring CVC utilisation at regular intervals throughout each day and making a record of the average utilisation on a daily basis.

Record keeping rules for New Network Access Services or Product Components/Features

- (12) The ACCC may, by providing written notice to NBN Co, request NBN Co to establish and maintain an electronic record that relates to any New Network Access Service, or any Product Component or Product Feature which is not currently the subject of these Rules, provided that NBN Co has published a Standard Form of Access Agreement on its website that relates to the New Network Access Service or the Product Component or Product Feature.
- (13) Subject to Rule 14 and 15, NBN Co must, within 90 calendar days of receiving the written notice provided under Rule 12:
- (a) Establish and maintain an electronic record containing information about the New Network Access Service, Product Component or Product Feature which is equivalent to that required by Rules 6 to 11.
 - (b) Comply with the reporting requirements in Rules 17 to 20 in respect of the New Network Access Service, Product Component or Product Feature.
- (14) NBN Co can provide written notice to the ACCC which specifies the information it can reasonably provide to the ACCC in respect of the New Network Access Service, Product Component or Product Feature, as the case may be, and, or, the time by which it can provide the information.
- (15) Should NBN Co provide a written notice to the ACCC under Rule 14, then its obligations pursuant to Rule 13 are taken to be varied in accordance with the terms of the notice.

Guidance note: this is not intended to limit the ACCC's power to make other record keeping rules for New Network Access Services or for Product Components or Product Features which are not currently the subject of these Rules.

Duration for which records must be kept

- (16) A record made under Rules 6 to 15 must be kept by NBN Co for 12 months from the date on which the record is made.

REPORTING REQUIREMENTS

- (17) For each calendar quarter, NBN Co must provide the ACCC with a report containing the information required by Rules 6 to 15 of these Rules as at the Reporting Date.
- (18) Notwithstanding Rule 17, NBN Co is not required to provide reports containing the information required by:
- (a) Rule 8 from the first calendar quarter after NBN Co no longer supplies Interim Satellite access services under any Standard Form of Access Agreement.
 - (b) Rules 6 to 15 of these Rules to the extent that it supplies the relevant services on a non-commercial trial basis.

- (c) Rules 9(g) to (l) until the first calendar quarter after NBN Co advises the ACCC that it is capable of providing such reports, which must occur no later than 30 June 2015.
- (19) A report under Rule 17 must be:
- (a) provided to the ACCC within 28 calendar days of the Reporting Date.
 - (b) prepared and submitted for Existing Network Access Services electronically in Microsoft Excel in the format prescribed by the ACCC and annexed at **Attachment A**.
 - (c) prepared and submitted for New Network Access Services as a consolidation with the report for Existing Network Access Services if practical and otherwise electronically in Microsoft Excel in a format substantially similar to the format prescribed by the ACCC and annexed at **Attachment A**.
- (20) The report specified under Rule 17 must be provided to the ACCC by email or by another mode of delivery approved in writing by the ACCC. Reports provided by email must be sent to both of the following addresses:
- (a) rkrinbox@acc.gov.au
 - (b) Comms.Admin@acc.gov.au
- (21) The ACCC:
- (a) may amend the format referred to in Rule 19(b) and (c).
 - (b) must provide NBN Co with adequate notice of any such amendment.

ATTACHMENT A: TEMPLATE FOR SIOs DATA

[One table per access technology e.g. FTTP, wireless, interim satellite and any additional access technology]

State	POI name	Access seeker	TC-1 AVC SIOs (count)			Total TC-1 AVC SIOs	TC-2 AVC SIOs (count)			Total TC-2 AVC SIOs	TC-4 AVC SIOs (count)			Total TC-4 AVC SIOs
			(e.g. 0.15 Mbps)	(e.g. 0.5 Mbps)	(e.g. 1 Mbps)		(e.g. 5/5 Mbps)	(e.g. 10/10 Mbps)	(e.g. 20/20 Mbps)		(e.g. 12/1 Mbps)	(e.g. 25/5 Mbps)	(e.g. 50/20 Mbps)	

[One table per group of access technologies e.g. (1) FTTP and wireless and (2) interim satellite. One row for each individual CVC.]

State	POI name	Access seeker	CVC Traffic Class	Contracted capacity (Mbps)	Avg. contracted capacity (Mbps)*	Avg. utilisation (Mbps) *	Avg. utilisation during Traffic Class peak period*

*Where the contracted capacity for CVC has changed during the reporting period, a time-weighted average will be presented in respect to the Avg. contracted capacity, Avg. utilisation and Avg. utilisation during Traffic Class peak period. Avg. contracted capacity will only be reported once Avg. utilisation and Avg. utilisation during Traffic Class peak period are reported (in accordance with Rule 18(c)).

DISCLOSURE DIRECTION

Issued by the Australian Competition and Consumer Commission

To

NBN Co Limited

ACN 136 533 741

*Pursuant to section 151BUC of the
Competition and Consumer Act 2010 (Cth)*

Direction

1. Pursuant to paragraph 151BUC(2)(c) of the *Competition and Consumer Act 2010* (the CCA), the Australian Competition and Consumer Commission directs NBN Co Limited to:
 - a) make copies of extracts of reports that are prepared pursuant to the NBN Services in Operation Record Keeping and Reporting Rules (NBN SIO RKR) that are to be prepared in accordance with Schedule 1;
 - b) prepare accompanying explanatory material in accordance with Schedule 2; and
 - c) make those extracts and explanatory material available for inspection and purchase by the public by marking them as available for public disclosure and providing them to the ACCC:
 - i. each calendar quarter;
 - ii. within twenty eight calendar days of the end of the calendar quarter to which the extract relates, or if that day is not a business day in the State of New South Wales, from the business day next following; and
 - iii. in an open file format able to be read by Microsoft Excel.
2. This Direction expires when the NBN SIO RKR ceases to be in effect.

Interpretation

3. The following terms have the meaning set out in this clause:
 - a) **'Listed POI'** means a POI that is set out in the document titled "Listed Points of Interconnection – NBN Corporation", published by the ACCC on 2 November 2012.
 - b) **'NBN Access Seeker Group'** means two or more Access Seekers which are acquiring Network Access Services and that are related to each other at the end of the relevant calendar quarter.
 - c) **'Network Access Service'** means each of the Existing Network Access Services and New Network Access Services included in the report NBN Co provides to the ACCC pursuant to the NBN SIO RKR in respect of the relevant calendar quarter.
 - d) **'Satellite Access Service'** means a Network Access Service supplied by NBN Co over a satellite network, including the Interim Satellite access services.

A capitalised term used in this Direction that is also used in the NBN SIO RKR has the same meaning in this Direction as it does in the NBN SIO RKR.

Rodney Graham Sims

Chairman

Date:

Schedule 1 – Extracts from NBN Services in Operation Record Keeping and Reporting Rules (NBN SIO RKR) reports

NBN Co is to prepare the following tables by aggregating data points that are drawn from the reports it prepares pursuant to the NBN SIO RKR in accordance with the methodology contained in this schedule.

Table 1 Count of AVCs by Network Access Service, and by AVC traffic class and data transfer rate tier

This table is to provide as at the end of the calendar quarter for each Network Access Service by AVC traffic class:

- a) the count of the total number of AVCs; and
- b) the sub-count of AVCs for each data transfer rate ‘tier’.

Table 2 Sum of contracted CVC capacity by State grouping and by CVC traffic class

This table is to provide as at the end of the calendar quarter the sum of contracted CVC capacity for each CVC traffic class by State grouping, including a count of total contracted CVC capacity for each CVC traffic class.

For the purpose of preparing this table, the following State groupings are to be used: New South Wales and the Australian Capital Territory; Queensland; South Australia and Northern Territory; Victoria and Tasmania; Western Australia.

A CVC is to be allocated to a State grouping based upon the State listed in respect of the CVC in the report NBN Co provides to the ACCC pursuant to the NBN SIO RKR for the relevant calendar quarter.

Table 3 Count of NBN Points of Interconnect (POIs) by count of NBN Access Seeker Groups present

This table is to provide as at the end of the calendar quarter:

- (a) the count of NBN POIs that are Listed POIs; and
- (b) the count of NBN POIs that are not Listed POIs, e.g. Temporary POIs,

that have a specified number of NBN Access Seeker Groups with contracted CVC capacity at the POI.

The specified number of NBN Access Seeker Groups to be included in the table is to range from zero to the number of Access Seeker Groups that are present at the NBN POI with the most NBN Access Seeker Groups present.

That is, this table is to record the number of NBN POIs without Access Seeker Groups present, followed by the number with 1 NBN Access Seeker Group present, followed by the number with 2 NBN Access Seeker Groups present, and so on, until the number of NBN Access Seeker Groups that are present at the NBN POI with the most NBN Access Seeker Groups is reached, and to do this for Listed POIs and POIs that are not Listed POIs, respectively.

Table 4 Count of TC-4 AVCs by Network Access Service and by NBN Access Seeker Group

This table is to provide as at the end of the calendar quarter the count of TC-4 AVCs by NBN Access Seeker Group for each relevant Network Access Service.

If the count of the TC-4 AVCs acquired by a NBN Access Seeker Group is equal to or more than 5 per cent of the total TC-4 AVCs for that Network Access Service as at the end of the calendar quarter, the count of TC-4 AVCs for that NBN Access Seeker Group for that Network Access Service shall be reported as a single line item that is titled by the name of the NBN Access Seeker Group.

If the count of TC-4 AVCs acquired by any NBN Access Seeker Group is less than 5 per cent of the total TC-4 AVCs for that Network Access Service as at the end of the calendar quarter, the count of TC-4 AVCs for the relevant NBN Access Seeker Group(s) for that Network Access Service shall be aggregated and reported in the table as a single line item that is titled 'Other Access Seekers'.

Table 5 Count of TC-4 AVCs by download data transfer rate and by NBN Access Seeker Group

This table is to provide as at the end of the calendar quarter the count of TC-4 AVCs by NBN Access Seeker Group and by download data transfer rate across all Network Access Services.

If the count of TC-4 AVCs acquired by a NBN Access Seeker Group is equal to or more than 5 per cent of the total TC-4 AVCs as at the end of the calendar quarter, the count of TC-4 AVCs shall be reported as a single line item that is titled by the name of the NBN Access Seeker Group.

If the count of TC-4 AVCs acquired by any NBN Access Seeker Group is less than 5 per cent of the total TC-4 AVCs as at the end of the calendar quarter, the count of TC-4 AVCs for the relevant NBN Access Seeker Group(s) shall be aggregated and reported in the table as a single line item that is titled 'Other Access Seekers'.

For the purpose of preparing this table, AVCs that are supplied with a data transfer rate tier that comprises a single specified download data transfer rate are to be aggregated with all other AVCs that are supplied with a data transfer rate tier with the same specified download data transfer rate, even if different upload data transfer rates may apply.

For the purpose of preparing this table, a data transfer rate tier that comprises a range of download data transfer rates is to be treated as though it comprised a single download data transfer rate that NBN offers on a data transfer rate tier. The single download data transfer rate selected is to be equal to the maximum of the range of download data transfer rates that are available on the relevant data transfer rate tier.

For instance, where NBN Co offers data transfer rate tiers on a Network Access Service with download data transfer rates of 12 mbps, 25 mbps, 25-50 mbps and 25-100 mbps; and offers data transfer rate tiers with download data transfer rates of 12 mbps, 25 mbps, 50 mbps and 100 mbps on another Network Access Service, the contracted download data transfer rate of the 25-50 mbps data transfer rate tier is to be treated as though it was 50 mbps, and the contracted download data transfer rate tier of the 25-100 mbps data transfer rate tier is to be treated as though it was 100 mbps.

Table 6 Count of TC-4 AVCs by State grouping and by NBN Access Seeker Group

This table is to provide as at the end of the calendar quarter the count of total TC-4 AVCs by State grouping and by NBN Access Seeker Group across all Network Access Services, including a count of total TC-4 AVCs for each State grouping.

If the count of TC-4 AVCs acquired by a NBN Access Seeker Group is equal to or more than 5 per cent of the total TC-4 AVCs as at the end of the calendar quarter, the count of TC-4 AVCs for that NBN Access Seeker Group shall be reported as a single line item that is titled by the name of the NBN Access Seeker Group.

If the count of TC-4 AVCs acquired by any NBN Access Seeker Group is less than 5 per cent of the total TC-4 AVCs as at the end of the calendar quarter, the count of TC-4 AVCs for the relevant NBN Access Seeker Group(s) shall be aggregated and reported in the table as a single line item that is titled 'Other Access Seekers'.

For the purpose of preparing this table, the following State groupings are to be used: New South Wales and the Australian Capital Territory; Queensland; South Australia and Northern Territory; Victoria and Tasmania; Western Australia.

An AVC that is supplied on a Network Access Service that is not a Satellite Access Service is to be allocated to a State grouping based upon the State listed in respect of the AVC in the report NBN Co provides to the ACCC pursuant to the NBN SIO RKR for the relevant calendar.

An AVC that is supplied on a Satellite Access Service is not to be reported in this table.

Table 7 Count of TC-4 AVCs by metropolitan/regional designation and by NBN Access Seeker Group

This table is to provide as at the end of the calendar quarter the count of TC-4 AVCs by NBN Access Seeker Group and by metropolitan/regional designation across all Network Access Services.

If the count of TC-4 AVCs acquired by a NBN Access Seeker Group is equal to or more than 5 per cent of the total TC-4 AVCs as at the end of the calendar quarter, the count of TC-4 AVCs for that NBN Access Seeker Group shall be reported as a single line item that is titled by the name of the NBN Access Seeker Group.

If the count of TC-4 AVCs acquired by any NBN Access Seeker Group is less than 5 per cent of the total TC-4 AVCs as at the end of the calendar quarter, the count of TC-4 AVCs for the relevant NBN Access Seeker Group(s) shall be aggregated and reported in the table as a single line item that is titled 'Other Access Seekers'.

An AVC that is supplied on a Satellite Access Service is to be designated as 'regional' in all cases.

If an AVC is supplied on a Network Access Service that is not a Satellite Access Service and is connected to a Listed POI, the AVC is to be designated as 'metropolitan', 'outer metropolitan' or 'regional' based upon the designation that is given to the POI in the document titled "Listed Points of Interconnection – NBN Corporation", published by the ACCC on 2 November 2012.

If an AVC is supplied on a Network Access Service that is not a Satellite Access Service and is connected to a POI that is not a listed POI, e.g. a Temporary POI, the AVC is to be designated as 'non-Listed POI'.

Schedule 2 – Explanatory material

The extracts may be accompanied by explanatory material that NBN Co considers relevant to explain the data that are presented in the extracts in the relevant calendar quarter. Such matters could include:

- a) that certain services have been excluded from a table in accordance with the methodology specified in the Direction, e.g. Satellite Access Services have been excluded from Table 6 in accordance with the methodology;
- b) the commencement or ceasing of supply of services over a Network Access Service, or services of different traffic class or data transfer rate tier;
- c) a significant change in NBN Co's commercial or operational arrangements that could reasonably be expected to influence demand for services supplied by NBN Co over one or more Network Access Services; and/or
- d) a glossary of terms used in the extracts.