



Submission NBN Co Points of Interconnection Consultation Process

Nextgen Networks Pty Ltd (**Nextgen**) welcomes the opportunity to provide feedback on the ACCC Consultation Paper with respect to NBN Points of Interconnect (**POI's**). Specifically, as required under s.151DC of the Competition and Consumer Act 2010, the ACCC is undertaking a reviewing the policies and procedures relating to the identification of listed Points of Interconnect to the NBN.

This submission responds to the specific questions in the ACCCs Consultation Paper.

Q: The ACCC invites stakeholders to comment on the policies and procedures relating to the identification of the Listed POI's. In particular, the ACCC seeks comments about the competition criteria and the planning rules and the application of these procedures in identifying the location of POI's.

The ACCC competition criteria have been used by NBN Co (in conjunction with the Planning Rules) to determine the number and location of POI's. These factors were used to establish a nation-wide list of 120 POI's initially, which was amended to 121 following public consultation. Further consultations conducted by the ACCC resulted in changes to the specific locations of some of these POI's. The ACCC published the 'list in force' in November 2012 which sets out the general location of each of the 121 POI's, but keeps precise locations confidential for security reasons.

Nextgen provides the following feedback on the specific processes and procedures used to determine this list of POI's and the outcome:

- i. The final list of POI's represents a reasonable compromise between cost considerations and technical requirements which also takes into account existing competitive infrastructure in transmission backhaul markets. All 121 POI's are within the scope of existing competitive fibre transmission backhaul services;
- ii. In terms of the specific POI locations, Nextgen submits that POI locations have only taken into account proximity to competitive fibre and not major transmission hubs as enabled by investment in electronics. While this may have resulted in a less than optimal assessment of competition's ability to deliver transmission, it is now too late to change these locations as network and business planning to connect to these nominated sites is now well advanced;
- iii. From Nextgen's own practical experience, the level of information published on the ACCC website with respect to NBN POI's is sufficient to allow industry

stakeholders to determine the general location of a particular POI, and stakeholders/access seekers are able to seek more precise information from NBN Co under appropriate confidentiality arrangements;

- iv. The location of a majority of NBN POI's within Telstra exchange buildings means that the ACCC needs to carefully monitor the facilities access arrangements administered by Telstra into and within these facilities in order to ensure that no unnecessary anti-competitive bottlenecks are created for access seekers. These locations must be free to become points-of-interconnect and traffic exchange for all access seekers and not just Telstra; and
- v. Under the current framework the ACCC should in the future consider recommending that further POI's be established over time beyond the existing ones where it can be demonstrated that competitive backhaul is in place and that interconnection at these locations would promote competition, facilitate mobile networks and efficient investment. Kalgoorlie (WA) would be one example of such a location. As understood under the current framework, adjustments to the Listed POI's would also require NBN Co approval.

[Commercial-in-confidence:]

Q: The ACCC seeks information on the extent to which facilities have been interconnected at the Listed POI's. In particular, the ACCC asks stakeholders to provide details of:

- a. The Listed POI's where interconnection has occurred
- b. Whether services are being provided from those Listed POI's and
- c. If so, the type of service that is being provided

Nextgen understands that there are a number of relevant factors that are likely to have a bearing on the timing and extent of interconnection at particular locations, including:

- i. The scale of the NBN rollout in a particular Fibre Serving Area (**FSA**) and timeline for the number of premises to which services can be delivered (i.e. 'NBN Serviceable') and
- ii. The timeline for the progressive shift from temporary to permanent (established) POI's;
- iii. Adequate notification being provided where NBN Co re-directs traffic from a temporary POI to a permanent (established) POI;
- iv. Negotiating facilities access arrangements at POI's in a timely and efficient manner given that most POI's are located within Telstra exchange buildings;
- v. The finalisation of the detailed terms in NBN Co's SAU and the release of further product offerings from NBN Co in the medium and larger business enterprise space.

While the progressive NBN rollout is still in its early stages (including the shift from temporary to permanent POI's for some locations), there is already a significant degree of related activity in this market to complement the NBN rollout and secure consumer benefit and competitive outcomes..

Nextgen provides the following further information in response to the ACCC's questions regarding interconnection, including with respect to its own activities. Given the commercial sensitivity of this information and its potential to price signal, this information is provided on a commercial-in-confidence basis:

[Commercial-in-confidence]

Q: The ACCC seeks information from industry stakeholders on the overall impacts of the approach to identifying the Listed POI's. In particular, the ACCC asks stakeholders for submission on the processes and procedures used to identify the geographic location of POI's based on the application of the criteria noted above.

The Listed POI's have been established on the basis of locating them near areas where there is existing competitive fibre backhaul transmission infrastructure.

Nextgen supports the use of the ACCC competition criteria for establishing the number and location of POI's on the basis that it will promote the efficient use of existing infrastructure, efficient investment in new infrastructure in backhaul markets, and support competition and innovative service delivery.

Nextgen submits that competition in backhaul markets has served the long term interest of end users well over the last decade. This is particularly evident in the success of backhaul for DSLAMs and mobile where backhaul competition exists.

In addition, should market outcomes not deliver the expected highly competitive results in a particular area, the ACCC already has a regulatory mechanism in place to address this with the declaration of the 'Domestic Transmission Capacity Service' and the ability to set price and non-price terms. The ACCC released a Final Access Determination for this Service in June 2012 which applies until December 2014. Further, the ACCC is due to review the existing DTCS declaration and the current regulated rates over the 2013-2014 period and can adjust these as it sees fit following industry consultation.

Yours sincerely,

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