

14 June 2013

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By email: Jessica.wicks@acc.gov.au

Dear Jessica

ACCC Discussion Paper on the Proposed Variation to the Building Block Model RKR

Thank you for the opportunity to comment on the proposed variation to the Building Block Model (BBM) RKR. Optus notes that the objective of this RKR is to enable the ACCC to gather sufficient information to enable it to properly populate the BBM. A clear objective of the amendments should be to address the deficiencies in Telstra's data in the recently completed WADSL FAD Inquiry. Optus notes that the proposed amendments appear to be a useful addition. However, more information should be collected to address concerns that were highlighted during the WADSL FAD Inquiry.

Please find comments on specific elements below.

Actual usage data

In addition to the proposed amendments, Optus recommends that the RKR require Telstra to report on the total volume of AGVC/VLAN capacity *purchased* by Access Seekers using the WADSL service. Access Seekers may purchase greater capacity than actually used. Actual peak capacity used may under-state the amount of AGVC revenue received by Telstra. For example, some Access Seekers may purchase AGVC sufficient for burst demand rather than an average peak demand. Access Seekers may also purchase sufficient capacity for expected peak demand at a future point of time, rather than demand experienced at the current time.

The inclusion of this information in the RKR will assist the ACCC to understand the relationship between capacity ordered by Access Seekers, and capacity used. This information would assist the ACCC to produce improved forecasts of AGVC usage that reflects actual Access Seeker demand of the service.

Collection of this information will also enable the ACCC to estimate the revenue gained in any one year against the revenue required under the BBM. This should assist the ACCC to identify if Telstra is

receiving more than the annual required revenue assumed in the BBM, and inform any discussion about the need to adjust allowable revenue in subsequent regulatory periods.

Forecast annual demand

The ACCC proposes to require Telstra to supply its demand forecasts, as well as an explanation of the methodology adopted and assumptions used. The ACCC also proposes to require Telstra to reconcile actual demand and previous forecasts. Optus supports these measures.

The RKR should also require Telstra to reconcile the forecasts in the RKR with forecasts supplied in ASX-lodged documents. Where forecasts rely on internal documents, the RKR should require Telstra to state the source internal document and the level of approval the forecast has received. Such a requirement will assist the ACCC to identify whether the forecast reflects a 'real' business forecast, or is made purely for regulatory purposes. This will help the ACCC to determine the weight that should be attached to the forecast.

The onus should be on Telstra to demonstrate that the forecasts in the RKR represent actual Telstra forecasts, and are not adjusted so as to game the BBM process. The additional requirements outlined above will assist the ACCC to address the problems experienced during the recent WADSL FAD Inquiry, where Telstra refused to supply forecast data.

Expenditure, asset life and asset value for data equipment

In addition to the proposed amendments to the RKR, Optus submits that the RKR should require Telstra to supply detailed information regarding the specific hardware within the data equipment category. For instance:

- List of DSLAMs/BRAS/IGRs in each exchange;
- Capacity of each DSLAM/BRAS/IGRs;
- Available capacity of each DSLAM/BRAS/IGRs;
- List the DSLAMs connected to each BRAS/IGR;
- Number of ports used by Telstra retail SIOs per DSLAM;
- Number of ports used by wholesale SIOs per DSLAM.

Such information would enable the ACCC to assess the efficiency of the data equipment used within the Telstra ADSL network. Optus raised concerns during the WADSL FAD Inquiry that the capital cost of DSLAM/BRAS/IGR implied by the WADSL port charge was far in excess of the costs incurred by other Access Seekers to deploy the same equipment¹. The ACCC responded that there is insufficient evidence to address this issue². Optus submits that it is therefore necessary for the RKR to collect sufficient information so as to enable the ACCC to make a full assessment of the efficiency of *all* the hardware included within the data equipment category.

¹ Optus, April 2013 Submission to the WADSL FAD Inquiry, p. 9.

² ACCC, 2013, Public inquiry to make a final access determination for the Wholesale ADSL service, Final Report, section C.1.

Further, such information is consistent with the purpose of the RKR amendments. The ACCC states that amending the RKR “will in turn increase industry certainty and improve the quality of decisions relating to price regulation in the telecommunications industry.”³ Optus submits that an inability to undertake necessary inquiries into the efficiency of the equipment due to a lack of information does not increase industry certainty or the quality of ACCC decisions. Therefore, it is necessary to remedy the lack of information through additional information in the RKR.

Additional measures

Optus also sees merit in amending the RKR to require Telstra to report total revenue received from Access Seekers for each of the regulated services within the BBM. Optus notes that aspects of this information may be available through other RKR data. However, it is not clear whether existing RKRs require Telstra to report on all components of revenue from regulated service (i.e. separate reporting of WADSL port and AGVC charge revenue). Optus recommends that it would be beneficial to amend the BBM RKR if a direct concordance is not possible between the information from existing RKRs and that needed to estimate total revenue received for services in the BBM.

The ACCC could use this information to check actual revenue against the predicted required annual revenue in the BBM. If it is shown that actual regulated revenue exceeds the required revenue in the BBM, revenue required in the subsequent regulatory period could then be adjusted downward.

Should you have any questions regarding the information contained in this letter, please contact me on (02) 8082 6454.

Regards,



Luke van Hooft
Manager, Economic Regulation

³ ACCC, 2013, Proposed Variation to the Building Block Model RKR Discussion Paper, p.9.