



16 May 2013

Mr Richard Home
General Manager
NBN Engagement and Group Coordination Branch
ACCC
Melbourne VIC 3000
By email

Dear Richard

NBN Co Special Access Undertaking

The ACCC has recently published submissions it has received on its draft decision on NBN Co's Special Access Undertaking (SAU). Optus notes that the submissions received from RSP's (the users of NBN Co's services) indicate a strong level of support for the ACCC's draft decision and the proposed variations that will need to be made for the SAU to be capable of being accepted.

Optus also notes that NBN Co has put forward a substantial amount of material in response to the draft decision. This includes a point by point analysis of the ACCC's draft decision together with NBN Co's proposed drafting changes to the SAU to give effect to the variations the ACCC outlined in its Consultation Paper. Whilst NBN Co has indicated some level of agreement to the changes proposed by the ACCC it is clear that it has not agreed with all of the ACCC's recommendations.

Optus is concerned that NBN Co's approach, whilst clearly well intentioned, is likely to delay the timely resolution of the SAU. NBN Co has effectively re-drafted significant parts of the SAU ahead of receiving a formal ACCC variation notice. However, it has not provided a fully re-drafted version of its SAU for formal consideration. It is, therefore, difficult to properly assess the status and implication of NBN Co's proposed changes.

To facilitate a timely resolution of the SAU, Optus submits that the ACCC should proceed to issue its variation notice as planned having regard to the submissions received. This will provide clarity on the ACCC's position and give NBN Co the ability to develop and lodge a revised consolidated SAU for industry and ACCC consideration.

Yours sincerely

Andrew Sheridan
Head of Interconnect & Economic Regulation