



Optus Submission

in response to the ACCC's discussion paper

Inquiry into varying the final access determinations for the
WLR, LCS and PSTN OA –where these services are supplied
over the NBN

May 2012

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Section 1. Introduction

- 1.1 Optus welcomes the opportunity to respond to the ACCC's discussion paper on varying the final access determinations (FAD) for the WLR, LCS and PSTN OA where these services are supplied over the NBN.
- 1.2 In principle Optus does not object to Telstra's request to the ACCC to vary the FAD. However, Optus submits that the exemption should only apply to NBN greenfield estates. It would be premature to remove regulation of wholesale voice services over all NBN estates. To ensure this outcome is achieved the definition of "greenfield" will need tightening.
- 1.3 Detailed below is Optus' response to issues raised in the ACCC's discussion paper.

Section 2. Optus' response to issues raised in the ACCC's discussion paper

CiC begins

CiC ends

Definition of NBN greenfield estates

- 2.1 Optus submits that if the exemption is to be granted, the ACCC should clarify the definition of NBN greenfield estates.
- 2.2 The ACCC has stated in the discussion paper that it proposes to define NBN greenfield estates as new developments that can be either broadacre or infill premises connected to the NBN. The ACCC proposes to further clarify this definition by defining the terms 'broadacre' and 'infill' developments.
- 2.3 Whilst Optus supports the ACCC's attempt to define the terms 'broadacre' and 'infill' developments, Optus is concerned that the ACCC's proposed definition omits a number of important considerations:
- (a) Under the Government's policy statement, NBN Co is only responsible as provider of last resort for the installation of fibre in:
 - (i) developments of 100 or more premises, whether broadacre or infill approved after 1 January 2011; or
 - (ii) developments, where NBN Co has already rolled out fibre and the fibre is ready and capable of connection; or
 - (iii) developments in areas where NBN Co has publicly identified the area as a rollout region.¹
 - (b) For developments of less than 100 premises, whether broadacre or infill, Telstra will retail responsibility for installing the infrastructure and delivering the service. Whilst Telstra has agreed that it will generally provide copper infrastructure, it can choose to provide fibre and/or wireless service.²
- 2.4 It is unclear if the ACCC's definition of NBN greenfield estates includes new developments where Telstra would be responsible for installing the infrastructure, ie developments of less than 100 premises. If it does, Telstra will be the only wholesale provider available in the area and retail service providers (RSPs) will not have the option to purchase services from NBN Co.
- 2.5 Optus submits that the definition of NBN greenfield estates to exclude any new developments should be clarified to exclude where Telstra will have responsibility installing the infrastructure.
- 2.6 Optus considers it would be ambiguous to use the term "developments of less than 100 premises" to define Telstra's development. It is currently uncertain what the term 'premise' means. For example, clarity will be required about whether a business park is to be considered as one premise or many premises.

¹ Department of Broadband, Communications and Digital Economy, Fibre in new developments: policy update, 22 June 2011, pp.2-3

² Department of Broadband, Communications and Digital Economy, Fibre in new developments: policy update, 22 June 2011, pp.2-3

- 2.7 Optus supports the ACCC to clarify NBN greenfield estates to include greenfield estates as described in NBN Co's Monthly Ready for Service Rollout Plans, as published on NBN Co's website from time to time. This ensures developments in areas where NBN Co has publicly identified the area as a rollout region are captured in the definition.

Expiry date

- 2.8 Telstra has applied for an exemption for a 12 month period until March 2013. However Optus submits that the expiry date of the exemption should be no later than September 2012 or when Telstra's NBN based voice services become available to wholesale customers (whichever earlier applies).
- 2.9 Telstra has stated that it plans to launch NBN based voice services to both retail and wholesale customers from September 2012. Optus considers that the exemption should be lifted once Telstra has started offering NBN based voice services to its wholesale customers.