

## Exemption provisions in the final access determinations for the WLR, LCS and PSTN OA services

### Optus supplementary submission, October 2011

- 1.1 The ACCC commenced a consultation on varying the exemption provisions in the final access determinations for the WLR, LCS and PSTN OA services in September 2011. Optus lodged a submission in response to this inquiry in October 2011.
- 1.2 Since then NBN Co has released further information regarding the timetable for NBN construction. Optus considers that this information is relevant to the ACCC's consultation; in particular, it is relevant to the ACCC's assessment of the likely future extent of access seeker investment in DSLAMs.
- 1.3 On 18 October 2011, NBN Co released its 12 month construction plan. The construction plan outlines the areas where NBN Co intends to roll out its network within the next 12 months, as well as areas where NBN Co has already started building the network. The plan includes 60 locations, 28 of which are new locations.<sup>1</sup>
- 1.4 The construction plan shows that NBN Co is rolling out its network in metropolitan areas as well as regional areas. Some of the areas where NBN Co has started to deploy or will begin rolling out its network fall within Exemption ESAs. The areas of overlap include Blacktown NSW, Coffs Harbour NSW, Homebush NSW, Lidcombe NSW, Wollongong NSW, Prospect VIC, Brunswick VIC, South Morang VIC, Tullamarine VIC, Applecross WA, South Perth WA and Victoria Park WA.
- 1.5 Clearly access seekers will not invest in any further DSLAM infrastructure in these areas, since any such investments would be overbuilt within 12 months, leaving insufficient time for the cost of the investment to be recovered.
- 1.6 Moreover, NBN Co's information release demonstrates the unusual degree of risk faced by potential investors in DSLAM infrastructure at present. The construction plan provides information on deployment only for the next 12 months. Access seekers which might be contemplating investment in DSLAMs at present will be aware that NBN Co will deploy its network into a new set of ESAs in the following 12 months. The next set of ESAs is currently unknown, so any new DSLAM investments would be subject to the risk that they may be overbuilt within the following 12 months – which would still leave insufficient time for the cost of the investment to be recovered. This risk is likely to result in a chilling effect on potential investments in DSLAM infrastructure.
- 1.7 Optus submits that, due to the risk of NBN overbuild, it is unlikely that access seekers will begin significant new investments in DSLAM infrastructure in the post January 2012 period. It follows that the extent of access seeker investment in DSLAMs will be no greater in the 'future with exemptions' scenario compared to the 'future without exemptions' scenario.

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<sup>1</sup> NBN Co, Media Release "*NBN Co releases 12-month national rollout plan*", 18 October 2011