

30 May 2023

Sean Riordan
General Manager
Communications Markets and Advocacy
Australian Competition and Consumer Commission
Via email

Dear Sean,

Re Variation to the NBN Co Special Access Undertaking Draft Decision – May 2023

Aussie Broadband Limited (**Aussie Broadband**) welcomes the opportunity to respond to ACCC's Draft Decision (dated May 2023) on the proposed variation to the NBN Co Special Access Undertaking (**SAU**). We appreciate the opportunity to provide our views on the issues discussed within the document.

The replacement module framework

Aussie Broadband supports the ACCC's position on the structure of the replacement module framework proposed by NBN Co, and we agree that it is reasonable and in the long-term interest of end users. We remain of the view that the requirement that NBN Co consults with customers and consumer representatives in preparing its regulatory proposals is beneficial. We share the ACCC's concerns regarding the provision for the deemed acceptance of replacement module applications but find NBN Co's proposed extended timeframe to be an improvement.

Post-2032 framework and proposed ICRA drawdown framework

Aussie Broadband has previously highlighted the risk of NBN Co setting inefficiently high pricing to pay down its debt to achieve and maintain a stand-alone investment grade credit rating from the commencement of Module 3. We are encouraged by NBN Co's proposed changes to the credit rating objective principle, namely the requirement that the ACCC set NBN Co's annual Initial Cost Recovery Account (**ICRA**) drawdown, subject to avoiding price shocks. Aussie Broadband is supportive of the ACCC determining the ICRA drawdown to ensure NBN Co is not over-recovering the ICRA and is continuing to promote the long-term interests of end users. We believe that the partial recovery of ICRA over time should be predictable, constrained, and transparent. The ICRA drawdown set by the ACCC must ensure that NBN Co manages its costs in a prudent and efficient manner.

Pricing and product constructs

We acknowledge NBN Co's pricing roadmap released on 24 May 2023 in response to the ACCC's SAU variation draft decision. Aussie Broadband sees the pricing roadmap as a path that is manageable, and we understand that the primary purpose is to allow an overall reduction in price for higher speeds.

In relation to low-income measures and supporting universal access for low-income users, Aussie Broadband believes that NBN Co and the government should provide clear options for people who need support to ensure access to internet at an affordable price.

Price controls and transparency measures

Aussie Broadband supports the introduction of price controls including the Weighted Average Price Cap (**WAPC**) to mitigate large price shocks for RSPs and end users. Our view on the WAPC is that as a framework it is a consistent way for NBN Co to support the change in prices on an annual basis. However, Aussie Broadband still has some concerns around the inherent risks in its design, particularly regarding what occurs in the future if NBN service growth does not eventuate and the ICRA is spread across fewer services, thus leading to further price rises.

BBM proposals and NBN Co's approach to the BBM

While Aussie Broadband believes that Building Block Model (**BBM**) information is appropriate for the purpose of the SAU and understanding what path NBN is on, we are concerned that the end goal of the BBM will be greatly impacted if NBN Co does not achieve its connected premises target. We continue to question what will happen to the remaining services on the NBN and how their achievement of revenue targets will be impacted if the connected premises target is not achieved.

Aussie Broadband considers there to be no major issue with the assumptions provided in the BBM regarding depreciation and useful economic lives of assets.

Expenditure review and criteria

We acknowledge that NBN Co has indicated that in a revised SAU variation proposal, it may provide for the ACCC to have additional powers to request and publish relevant information required for undertaking expenditure reviews. Aussie Broadband is supportive of this proposal if made in the revised SAU variation. We believe that the ACCC should have powers to require NBN Co to prepare, maintain and share with stakeholders and the ACCC the types of information that would be typically required by regulators for expenditure review processes. This would give Aussie Broadband and RSPs the confidence that NBN Co's expenditure is reasonable and in the long-term interest of the end user.

Cost allocation and accounting separation

Aussie Broadband is supportive of the ACCC's determination that the cost allocation and accounting separation measures set out in the SAU variation are reasonable and promote the long-term interest of end users. We welcome these arrangements to provide greater transparency and efficient operation.

Aussie Broadband still holds some concerns in regard to the splitting of costs between 'core' and 'non-core' services, and the risk that this could result in NBN Co holding a pricing advantage versus other competitors in that market. We agree with the ACCC's determination that appropriate cost allocation principles such as a cost allocation manual, accounting separation and record keeping, external assurance and regulatory reporting arrangements, are necessary to guard against harmful outcomes for efficiency and competition.

Weighted average cost of capital

Aussie Broadband has no major concerns with the weighted average cost of capital (**WACC**) principle proposed in the SAU variation. We are comfortable with the assumptions provided over the period of the first regulatory cycle, but we expect that the ACCC will be conservative in determining the WACC for future regulatory periods.

Provisions of incorporating other access technologies

Aussie Broadband is supportive of the ACCC's view that all NBN-related technologies should be covered by the SAU variation, and that the related provisions in the SAU variation are appropriate. We see no issue with the SAU including the multi-technology mix (**MTM**) technologies and introducing network boundary points for the included technologies.

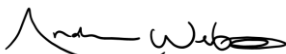
Service quality

Aussie Broadband is supportive of NBN Co's proposal to include service standards in the SAU framework, but we are aligned with the ACCC's view that elements of the service standards could be improved; particularly around greater consultation with stakeholders regarding service standards, and alignment with newer standards as discussed under the WBA5. We remain supportive of the ACCC's review powers under the SAU variation to consult and set benchmark service standards both at the beginning of, and during the regulatory cycle.

Reporting

Aussie Broadband continues to support the ACCC's intention to develop a record keeping rule for NBN Co. However, we remain of the view that the SAU should contain minimum reporting commitments to support monitoring benchmark service standards without restricting future improvements. Aussie Broadband appreciates that NBN Co will provide monthly network utilisation reporting and quarterly reporting on the shared network, but we believe NBN Co should continue its own public reporting on congestion, network availability, and connection and assurance performance, among other things.

Warm regards,



Andrew Webster
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Aussie Broadband Limited