

Australian Competition and Consumer Commission

**Input into a proposed NBN Co carrier licence condition about
information disclosure
Discussion Paper**

Submission of the TPG Telecom Group

Public version

24 April 2015

The TPG Telecom Group makes this submission in response to the Australian Competition and Consumer Commission (ACCC) 'Input into a proposed NBN Co carrier licence condition about information disclosure' discussion paper (the **Discussion Paper**). We thank the ACCC for this opportunity to make a submission on this important issue.

Answers to ACCC questions:

1. What are the likely cost and benefits of the proposed licence condition? Quantify the likely costs and benefits as far as possible.

TPG is not in a position to comment directly on the costs of the proposed licence condition but expects that as the licence condition will only require the provision of information which is already collated for the necessary implementation of the definitive agreements, the costs would be minimal. The benefits are plainly that the playing field for NBN end users will not be unfairly weighted in favour of Telstra.

2. Do you agree with the overarching objective of the proposed licence condition?

Yes, TPG agrees with the objective of the proposed licence condition.

3. Do you see any limitations or obstacles to achieving this objective via the proposed licence condition, and if so, how should they be addressed?

This will depend on the form the licence condition ultimately takes. If the proposed condition requires NBN Co to make available to other retail service providers (**RSPs**) all information that it will provide to Telstra, then the objective of symmetry would be achieved. If the information released to other RSPs is less than what is provided to Telstra, then the objective may not be achieved, though that will depend on whether the omitted information is genuinely of use to the RSPs or would give any actual or perceived advantage to Telstra.

4. What are the appropriate underlying principles for the licence condition? (S.5 pg 13)

TPG agree that the following possible principles are appropriate:

- Any information about the NBN rollout that NBN Co makes available to a service provider to the NBN Co and that is in the business of telecommunications and may be or become an RSP should be made available to all service providers;
- No party that is or is likely to become an RSP should obtain a competitive advantage by reason of its receipt of information from NBN Co;

- All relevant parties are to receive information from NBN Co about the NBN to place them in an equivalent position to plan for, and commence supplying, equivalent services over the NBN fixed line network generally, and in individual NBN service areas that comprise a part of the NBN fixed line network;
- There should be no unnecessary restrictions on each relevant person gaining access to the information.

TPG does not have a view about the format or timeliness of the information, provided that the information is accurate and provided to all service providers at the same time in a common format.

5. Should the licence condition incorporate principles for dealing with information flows?

TPG do not have a view on this.

6. What information about the NBN rollout do service providers require? What is the rationale for making this information available?

Service providers are currently functioning without any such information; however the proposed condition should not be concerned with providing information that other providers desire, as this may differ from one provider to another, but rather should be concerned with ensuring symmetry and removing any actual or perceived advantage received by Telstra. For this reason, we would suggest that NBN Co make available to other providers **all** information that it will provide to Telstra.

However, information types that give detail of upcoming rollout timing and areas are among the most useful to other providers.

7. What information should NBN Co disclose to all service providers regarding the NBN rollout? What is the rationale for making this information available?

See response to question 6 above.

8. In what circumstances or for which of the identified datasets would it be necessary or appropriate for NBN Co to disclose verbatim information in order to achieve information symmetry?

Information symmetry will only be achieved if all providers have access to the same information.

9. For each identified dataset, what management or operational reports should NBN Co make available to achieve information symmetry?

Information symmetry will only be achieved if all providers have access to the same management or operational reports. We do not suggest any new reporting requirements be imposed.

10. What lead time is necessary for being informed of the technology mix for a region? What are the relative merits of receiving early notice of plans that may be subject to change and of receiving finalised design documents at a later stage?

If a vertically integrated provider receives notice of the proposed technology mix for a region, they can consider amending their own plans for servicing the region using their own infrastructure. The provider may decide that the technology mix proposed by NBN Co is adequate and not seek to roll out any new infrastructure of their own, or may plan their own install using technology most compatible for use alongside that used by NBN Co.

The lead time should simply be the same as provided to Telstra in order to ensure symmetry.

11. What information should NBN Co make available regarding individual premises? What is the rationale for making this information available?

TPG does not have a rationale for making information regarding individual premises available, aside from the over-arching objective of ensuring that Telstra does not receive any actual or perceived benefit from being provided this information where other providers are not.

12. Would retail service providers benefit from knowing which of its customers have lodge[d] an NBN migration order?

Yes, it is likely that RSPs will benefit from knowing which of its customers have lodged an NBN migration order.

13. Where end-user churn occurs in the transition to the NBN, is there a legitimate need for the 'losing' retail service provider to be supplied with the identity of the 'gaining' service provider?

Information of this kind, provided on a high level rather than specific basis, is a useful piece of competitive information. A monthly report listing the numbers of subscribers lost to each other RSP is valuable but specific information about a particular End User should not be provided.

14. In the interests of 'ensuring symmetry' in the disclosure of information, could the proposed licence condition restrict NBN Co from disclosing information? If so, what information should be prohibited from disclosure?

The proposed licence condition could prevent NBN Co from disclosing information in relation to the rollout to Telstra unless the same information was provided to other providers. But otherwise, TPG does not agree with restricting NBN Co from disclosing information.

15. Should there be restrictions on NBN Co supplying commercially sensitive information of its customers to a losing network service provider? If so, how would this be address[ed] in the proposed licence condition?

We do not believe NBN Co should be supplying information of its customers (access seekers) to a losing network service provider (Telstra), particularly if that information is commercially sensitive. There is very little information a losing network service provider should require.

TPG encourages this being addressed in the proposed licence condition.

16. Would retail service providers be likely to exercise their rights under Part XIC to prevent NBN Co disclosing information to certain recipients (for instance, Telstra)?

No view

17. What should be the form of disclosure of information by NBN Co? What information should be disclosed as, for instance, data, reports or as briefings?

TPG would suggest that the form of disclosure be guided by the form in which Telstra will require the information and that all providers are simply given access to the same information.

18. Should the form in which information is disclosed be left to NBN Co to decide, but subject to a guiding principle that the format be readily accessible to the target recipients?

TPG agrees with this approach.

19. What level of detail should NBN Co be required to disclose? What information should be disclosed in greater detail, and what information could be disclosed in summary?

TPG would suggest that the level of detail also be guided by the level of detail that Telstra will require and that all providers are simply given access to the same information.

20. In what circumstances should NBN Co make explanatory statements about the information it discloses?

Where information provided paints an inaccurate or incomplete picture, particularly raw data, it would be best if NBN Co provided an explanatory statement to accompany the information.

21. To whom should NBN Co disclose the information? (S.5 pg 20)

To all RSPs, at least, but as Telstra is a vertically integrated service provider, and vertically integrated service providers could reap a number of benefits from having access to the information, which in turn will benefit end customers, we would suggest that the information be made more broadly available.

22. Should any requirements or pre-conditions be placed on parties seeking to access the information?

Parties seeking access to information should agree to keep the information confidential.

23. Specifically, in respect of vertically integrated service providers, should restrictions be imposed to limit access to information to the retail arm and prevent disclosure to the infrastructure arm?

TPG does not believe that vertically integrated service providers should be restricted from providing information supplied by NBN Co to their infrastructure arm. 24. How should licence condition[s] ensure that information is provided in a timely fashion? (S.5 pg 22)

TPG agree that imposing a static licence condition in relation to information flows at a particular time is not an effective long term approach. As the objective of the condition is to ensure symmetry between Telstra and other providers, we would suggest that the timeliness of information be guided by the time at which Telstra will require the information and that all providers are simply given access to the information at the same time.

25. How frequently should information be disclosed? What types of information should be disclosed more frequently (weekly, fortnightly, monthly), and what information should be disclosed at longer intervals (quarterly, biannually, annually)?

As above, we would suggest that the timeliness of information be guided by the time at which Telstra will require the information and that all providers are simply given access to the information at the same time.

26. How should the proposed licence condition deal with changes to the information that should be disclosed? For instance, should the proposed licence condition incorporate guiding principles that enable the condition to adapt to future changes, or include a notification obligation?

If the proposed licence condition simply requires NBN Co to make the information it shares with Telstra available to other RSPs, or to a broader group of telecommunications providers, TPG does not anticipate that this will be an issue.

27. What should be done to ensure compliance with the proposed licence condition and to facilitate compliance monitoring and enforcement by the relevant agencies?

TPG does not have a suggestion on this point.