

14 July 2023

Ed Seymour
Director
Communications Group
Australian Competition & Consumer Commission (ACCC)

By email: telcoseparationrules@acc.gov.au

Dear Mr Seymour

Myport Pty Ltd (trading as Gigafy) Functional Separation Undertaking

Superloop welcomes the opportunity to provide this submission in relation to the ACCC's consultation paper "Myport functional separation undertaking" (**Gigafy Undertaking**).

Superloop considers it is in the long-term interests of end-users (**LTIE**) for residents connected to Myport's (trading as **Gigafy**) broadband networks to be offered a genuine choice of a diverse set of retail service providers. However, our view is the functional separation measures proposed by Gigafy are insufficient to achieve this outcome, and the functional separation undertaking should not be accepted in its current form.

Responses to Consultation Questions

Superloop's response to the consultation questions is set out below:

	Question	Superloop Response
1	Do the customised provisions in Gigafy's undertaking raise any material concerns?	<p>We have concerns that the provisions do not sufficiently promote an open-access non-discriminatory network and do not sufficiently advance the LTIE.</p> <p>Specific concerns include:</p> <ul style="list-style-type: none">• The functional separation undertaking will not take effect until 12 months after the ACCC approval, which is 4 years after the relevant legislation came into effect.• Gigafy's business model appears to be based on securing greenfield wholesale opportunities by promoting a single ISP choice. (Per the website: "<i>Building managers, property developers, and body</i>

		<p><i>corporates. Gigafy makes you the preferred internet supplier for your residents... Full control over internet pricing in your apartment building.”¹</i>). This strategy results in an inherent conflict of interest that is incompatible with the operation of an open-access non-discriminatory wholesale network and requires stronger measures to ensure compliance.</p>
2	Is Gigafy’s undertaking likely to promote the long-term interests of end-users?	No, for the reasons mentioned above, we consider the undertaking is insufficient to achieve the required wholesale separation.
3	Do you have any other comments on the undertaking not covered by previous questions?	n/a

We welcome further feedback or comments from the ACCC.

Yours sincerely

Adam Foye

Head of Compliance, Risk and Regulatory

¹ <https://gigafy.com.au/building-managers/> (accessed 10/7/23)