Submission to NBN SAU variation: floor and ceiling – modified pricing options

ACCC

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Public submission

Introduction

TPG Telecom refers to NBN Co's modified floor and ceiling pricing options for its SAU variation proposal, as set out in NBN Co's July 2023 paper.

TPG Telecom remains of the view any proposal to provide certainty for retailers cannot be traded by NBN Co removing national pooling of overage. The removal of CVC pooling reflects a material change after more than 2 years of SAU variation discussions. Retailers have been provided very little time to assess the full implications of NBN Co's options. Regardless of the option NBN Co decides to proceed with, a floor and ceiling proposal will only add further complexity to NBN Co's already complex pricing construct.

Retailers cannot afford further delay to the SAU variation process. NBN Co's refusal to increase CVC inclusions is resulting in higher overage costs across the industry. This only benefits NBN Co and reduces the ability of retailers to provide affordable services to consumers.

On an ambitious timeline, NBN Co believes new pricing proposals could be implemented under WBA5 by 1 December 2023. However, TPG Telecom considers a date of 1 February 2024 or later is more realistic, as any small slippage in NBN Co's timelines will push out the implementation date.

The unacceptable consequence of NBN Co's prolonged process will see retailers face an initial price increase when WBA5 is implemented and then face another price increase a few months after on 1 July 2024. Two consecutive price increases within 7 months or less will force price shocks onto consumers, reduce the affordability of broadband services, and is not in the LTIE. NBN Co must commit to not increasing prices on 1 July 2024.

Based on the information available and within the time provided, TPG Telecom does not support any of the modified floor and ceiling proposals proffered by NBN Co. If the ACCC believes a floor and ceiling construct is in the LTIE, TPG Telecom believes the only viable option is for NBN Co to adopt a hybrid of Option 1 and Option 2 – i.e. Option 2 but with a price floor of $48.

Transitional credit inadequate and NBN Co should lift CVC inclusions

The $12 million transitional credit offered by NBN Co is inadequate for industry, particularly relative to the cost increases retailers have absorbed due to NBN Co freezing CVC inclusions.

Retailers are now being placed in a difficult position where increased overage costs mean the alternative options presented by NBN Co could be better than continuing with the status quo. This is an illusion which only appears because NBN Co has frozen CVC inclusions.

The fact NBN Co is providing transitional credit is tacit acknowledgement delays are detrimental to industry and consumers. To bridge the gap between now and when WBA5 is implemented, NBN Co must also increase CVC inclusions. This would provide immediate relief from high overage costs, benefitting industry and consumers.

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At a minimum, the transitional credit amount should be paid to retailers now, rather than being conditional on SAU acceptance, which only serves to place further pressure on industry to acquiesce.

Modified price and floor proposals only guarantee higher NBN revenues

NBN Co claims the modified floor and ceiling proposals provide a more level playing field across industry compared to the November 2022 SAU variation proposal. NBN Co should not be surprised retailers are planning to optimise their wholesale speed tiers, particularly given NBN Co supported retailers undertaking this activity under the November 2022 proposal.

NBN Co now objects to optimisation activity because it believes consumers will not receive the benefit of higher wholesale speeds they are migrated to. The fact is optimisation is a tool for retailers to control their wholesale costs. It has no impact on end-users as consumers still receive the service they are paying for.

This is again another example of NBN Co reaching well beyond its wholesale remit, by attempting to dictate and distort how the retail market should function, without taking any accountability for deficiencies in its service quality, particularly the poor performance of its line speeds.

NBN Co appears to be using its non-discrimination obligations to justify imposing a price floor, which TPG Telecom considers is an attempt to *guarantee* NBN Co's revenues, rather than giving NBN Co a *reasonable opportunity* to reach cost recovery.

NBN Co states the modified floor and ceiling proposals "*are expected to result in lower wholesale costs for RSPs than forecast under the November Variation **at the time it was lodged***" (page 3, emphasis added). NBN Co states its forecast ARPU at the time the November 2022 proposal was lodged was $48.49 for FY24.

However, NBN Co has not disclosed how its forecast ARPU and revenue have now changed, resulting in it concluding it "*no longer considers that the November Variation is capable of delivering the financial outcomes that nbn needs to support its ongoing investment and financing objectives*" (page 23). This suggests the modified floor and ceiling proposals will not actually reduce NBN Co's expected ARPU and revenue, and instead will enable NBN Co to effectively guarantee higher ARPU and revenues.

Further, NBN Co ignores the fact other aspects of its SAU variation proposal will benefit certain retailers over others, running contrary to NBN Co's own arguments regarding the application of non-discrimination obligations.

This is evident in NBN Co's approach to the NBN12 'voice only' or 'basic bundle' service and NBN12 'broadband' service. As TPG Telecom has noted in previous submissions, NBN Co's proposal will see approximately 400,000 NBN12 services obtaining a significant AVC price decrease, while the remaining half face steep AVC price increases. This will advantage and disadvantage different retailers depending on their customer base mix and usage of their NBN12 consumers.

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The irony is a level playing field could be achieved if NBN Co adopted AVC-only pricing for all products. This is a simple pricing mechanism TPG Telecom has long advocated for, yet NBN Co continues to refuse based on a misguided belief it will reduce affordability, when NBN Co's pricing proposal will already make broadband services less affordable.

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