



**Australian  
Competition &  
Consumer  
Commission**

## Communications Sector Market Study Stakeholder Forum Summary

3–4 July 2017  
Grace Hotel  
77 York Street, Sydney

### **Disclaimer**

This document is not a verbatim record of the forum but a summary of the issues raised by forum attendees. The views and opinions expressed are those of the attendees and do not reflect the ACCC's views or position on the issues summarised here.

### **Introduction**

ACCC Chair Rod Sims welcomed attendees, outlined the purpose of the forum and invited the attendees to contribute comments in response to the topics of interest to the market study. Attendees were informed that the matters discussed at the forum would be recorded and a summary placed on the ACCC's website, but that this summary would not identify or attribute comments to individuals or organisations.

### **Summary of discussions**

#### **Competition across communications technologies**

##### **Technology substitution**

Attendees held differing views on the extent to which fixed wireless and mobile services compete with and substitute for fixed line services. While there was agreement that some substitution is occurring, there was disagreement as to whether this substitution would increase in the short to medium term with some participants noting that fixed line services provided technically superior products that could not be replicated by mobile technologies. Other participants suggested that a not insignificant proportion of the population is choosing to go 'mobile-only', and that the rise in data caps on mobile plans would see this proportion increase.

Attendees noted that substitution of fixed line broadband services by fixed wireless and mobile differs by consumer type and geography, and whether substitution is occurring should be considered on a more disaggregated basis. For example, mobile services, both voice and broadband, in rural Australia may be less substitutable for a fixed line connection given the availability and speed of rural mobile networks.

Attendees provided a range of views on the factors that affect the potential for wireless to substitute for wireline in the supply of services to fixed locations. In addition to the economic case for use of fixed wireless in low population density areas, attendees noted a number of relevant factors affecting substitution and convergence in the use of access technologies by

service providers. These include narrow retail margins on the NBN network, the availability of SIM equipped modems and the advent of small cell networks when 5G becomes available.

### **Role of spectrum**

Attendees raised availability of spectrum for 5G as an important issue. Attendees expressed divergent views on whether spectrum allocated in the 3.6 GHz band should be reallocated for mobile broadband use (as suggested by an ACMA discussion paper), or remain allocated for use by wireless internet service providers. Some suggested the option of using dynamic spectrum management and sharing as a potential resolution. It was also suggested that the process for managing allocation of spectrum should consider the benefit to overall economic welfare and not simply be driven by the highest sale price. Maximum proceeds from sale do not always result in the best competitive outcome.

Attendees also raised concerns over the availability of spectrum in regional areas, including for the Internet of Things (IoT) and machine to machine (M2M) communications.

### **NBN pricing and performance**

A number of participants considered that NBN performance will be a factor in determining the extent of substitution between technologies. Where NBN performance or delays in connections cause significant consumer dissatisfaction, it was noted that consumers may seek alternative broadband access services (including wireless). Further, some considered that current NBN performance for business consumers was poor, and that there was a continued role for alternative technologies to deliver services to these consumers outside of the NBN.

Several stakeholders also suggested that uncertainty around the margins available from supplying retail services over the NBN may incentivise some service providers to turn to other technologies like 5G to provide residential broadband products.

### **Promoting competition for NBN services**

#### **Industry concentration and product differentiation**

Some attendees suggested retail competition on the NBN is limited with four dominant carriers and that there is little product differentiation, with competition focused primarily on price. Further, that this reflects both the concentration and vertical integration in the supply of key wholesale services, including NBN aggregation services and dark fibre.

#### **NBN aggregation services**

Some stakeholders noted that the suppliers of NBN aggregation services were also supplying retail NBN services and that as a result there are no independent providers. Further, this limits the nature of the NBN aggregation services supplied and the ability of a service provider using them to differentiate, add value and innovate in supplying retail services. One example of this raised was the lack of NBN aggregation TC2 (business grade/committed information rate) products despite retail products being available.

Other attendees were of the view that there are NBN aggregation services available (including TC2 products) and that innovation is occurring in their development. Further, developing these products requires business cases (and supporting demand), capital investment and time.

Attendees noted that NBN aggregation services are being used where service providers do not have sufficient scale at a NBN point of interconnection to directly connect. There was discussion on the revenue required per NBN point of interconnect for sufficient scale to be achieved for direct connection to be feasible. Some participants raised the view that the

economies of scale, and decisions to directly connect to NBN points of interconnection, are very different in metropolitan versus rural and regional areas.

Discussion around the supply by NBN Co of a NBN aggregation service suggested there was support by smaller providers for this to occur (given their views about the absence of effective competitive supply of NBN aggregation services, which was seen as a first best outcome). Some viewed this as an interim measure to help smaller providers build scale prior to directly connecting to NBN points of interconnection.

Others expressed concern about NBN Co supplying a NBN aggregation service as it would lead to NBN Co supplying services beyond its intended remit.

### **Dark fibre**

Some attendees suggested there was limited supply of dark fibre at NBN points of interconnection, which is a barrier to entry and limiting the extent of competition in the supply of services using the NBN. Further, that this reflected in the vertical integration in part of the supply chain. The possibility of regulation of dark fibre was also noted as occurs in some instances in Europe.

There was a counter view expressed that dark fibre products are being supplied where feasible, but that in regional and rural areas it is less viable given technical factors, and the economics and overall demand for this product is low.

### **NBN information management**

Concerns were raised around management of information flows between NBN Co, NBN aggregators and service providers to connect consumers and help address service quality and performance issues. For example, some attendees stated that inaccuracy of NBN information about ready for service dates causes issues for service providers seeking to market and acquire consumers in those areas. Further, that while information from NBN Co was in many cases adequate, this was not the case in circumstances of change (such as with technician appointments, installation times or rollout changes). It was also suggested that information provided was not user friendly for small to medium sized service providers.

Several downstream service providers acquiring NBN aggregation services expressed concern about the information they were receiving and that it was not sufficient for them to manage service quality and performance issues. Others were of the view that NBN Co had appropriate provisions in place to make relevant information available to both wholesale aggregation providers and their downstream customers.

Some attendees also suggested that the information NBN provided to its customers should also be made available to the public, and that lack of information, or misinformation, provided to consumers is driving dissatisfaction with the NBN. In contrast, there was a view that NBN provides fit for purpose information for consumers.

### **NBN Wholesale Broadband Agreement**

Concerns were raised about service levels and the absence of avenues for recourse in the NBN wholesale broadband agreement, with some stakeholders suggesting that it requires reviewing to ensure it is meeting industry needs and that there are appropriate incentives to deliver baseline minimum standards.

### **Meeting growing demand for data**

#### **NBN pricing sustainability**

Service providers expressed apprehension regarding the sustainability of the NBN CVC charge, noting that increasing consumer data usage and the variable nature of the charge creates uncertainty for future costs.

Views were expressed that while CVC pricing may have been appropriate for FTTP, it is not appropriate for FTTN services. It was stated that this is because FTTN speeds were less predictable than those on FTTP.

The counter view was that the variable CVC charge incentivised end-users to use the network efficiently, and was in line with wholesale broadband charges on the legacy copper network. There was a view that service providers could test consumer willingness to pay higher prices for NBN services and monetising an assumed inelastic demand, and that to date there has not been extensive pricing experimentation at the retail level.

### **Consumer willingness to pay**

Attendees discussed consumers' willingness to pay and the apparent reluctance of consumers to take-up higher speed plans, given that the 25/5 Mbps plans are currently the most popular NBN plan. It was noted that \$60 a month is a popular price point for price conscious residential consumers, and some service providers contended that it is unlikely that consumers are willing to pay extra to move up a speed tier. It was considered that this is in part due to a lack of reliability around NBN speeds, and that consumers are not willing to pay for higher speeds as the provider is not able to guarantee greater speed performance for the additional cost.

### **Alternatives to current NBN pricing construct**

It was agreed that the NBN offers an opportunity for new entrants to compete on a level playing field, but several service providers considered that there would be greater competition and uptake of NBN services if the current pricing mechanism was restructured.

Attendees suggested a variety of alternatives to the NBN's current pricing framework, including:

- A rebalancing that included a reduction of the CVC charge and a greater reliance on the AVC charge.
- The removal of speed tiers
- The removal of the CVC charge entirely, with AVC-only pricing.

It was suggested that restructuring the pricing construct could increase revenues for NBN Co as it might encourage faster take-up of services. However, others cautioned that some pricing structures, such as an AVC-only model, may price those with a lower willingness to pay out of the market. It was noted that pricing mechanisms should take into account the affordability of telecommunications for households, especially those in the lowest income brackets.

Some participants suggested considering pricing on non-NBN next generation networks and comparable national broadband networks provided in Singapore and New Zealand.

The need for NBN Co to recover its investment was also raised, with various views expressed on how this could be best achieved. Some participants suggested that the Government should become involved in writing down some of the cost of the NBN so as to reduce the cost recovery requirement on NBN Co, which might lead to more efficient wholesale access prices.

## **Competition and consumers**

### **Consumer and information management**

Attendees acknowledged that many consumer concerns on NBN performance stemmed from long supply chains between retailers, NBN aggregators, NBN Co, and its contractors. It was noted that many of these relationships are new, and therefore information flows on operational issues (e.g. technician appointments) may experience breakdown.

Long supply chains and information breakdowns also incentivised consumers to bypass their service provider and seek solutions directly from NBN Co. It was noted that there is also a tendency for retailers, NBN aggregators and NBN Co to pass responsibility for connection delays and network performance issues between each other. It was generally agreed that a consumer's relationship should be with their retailer due to the direct contractual relationship, and not with NBN Co.

While it was noted that 85 per cent of consumers have a positive experience in connecting to the NBN, there was recognition that both wholesalers and service providers have a role in delivering a better NBN consumer experience.

### **Access to information**

There was broad recognition that consumers need clear, useful and relevant information to navigate the market. Several participants agreed that the ACCC's broadband monitoring program will be beneficial for consumers, as currently there is little information on network performance. There was agreement that information provided to consumers needs to be in a form that they can easily understand to make appropriate choices.

Some attendees suggested that any regulation giving consumers access to their own data needed to keep in mind industry costs in supplying this data and should be limited to access to relevant information.

Concerns were raised about comparator websites, especially where it is not clear to consumers that commercial arrangements and preferential treatment may be in place. It was suggested some comparator websites only show plans for between 20 and 30 per cent of available retail service providers.

### **Consumer guarantees**

Several attendees suggested that existing customer service guarantees need to be updated to reflect new technology and use of communications services. It was noted that the telecommunications customer service guarantee only applies to fixed line telephones as it was created 20 years ago when the communications market was less developed. Noting the increased reliance on newer technologies, some suggested that the guarantee should be expanded to include broadband services.

### **The future of competition in IoT and other innovative services**

It was widely acknowledged that the IoT has major implications for both communications networks and the broader economy. Attendees noted that IoT is driving innovation and there is not a one sized solution in terms of the technology and spectrum utilised. There was recognition that the deployment of low-powered wide area IoT networks, which predominantly use unlicensed spectrum, is providing economical IoT access solutions.

Attendees discussed the importance of roaming, especially international roaming, for M2M communications and the IoT. Concerns were raised that international roaming mechanisms were not as widely available in Australia as they are overseas, and therefore competition in this market was being dampened. It was also noted that physical SIM cards pose a potential barrier to the adoption of IoT services supplied over mobile networks, and that there was a need for mobile network operators to agree to implement e-SIMs.

The importance of IoT security and resilience was raised by several attendees. In particular, some suggested that the emerging nature of the IoT sector meant that many security concerns were not fully understood yet. Other attendees suggested that a security rating system was needed to ensure consumers were aware of any risks of using IoT devices.

There was broad consensus that the nascent IoT sector should be allowed to evolve without upfront regulation, relying on ex-post competition law (if required).

## **Over the top services**

Some limited foreclosure issues were raised with respect to innovative new over the top (OTT) services. It was observed that OTT services can be key drivers of increased broadband access take-up. A concern was raised around potentially low quality OTT voice services being marketed as substitutes for traditional voice services, noting that it is not possible to guarantee service quality when operating over third party underlying networks. Further, some attendees raised concerns about lower regulatory requirements upon OTT providers, and how these contrasted with often more burdensome regulation of traditional communications services.

## **Communications regulation and policy**

### **Nature of regulation**

There was broad agreement that the use of ex-post competition law to respond to any concerns regarding newer and evolving communications services was appropriate, rather than ex-ante access regulation. In this environment, there was a view expressed about the need for tools that would allow ex-post intervention to occur quickly and some concerns were raised around the proposed repeal of the Part XIB anti-competitive conduct provisions in the *Competition and Consumer Act 2010*.

Some participants suggested the removal of all ex-ante regulation (for example, spectrum allocation limits), with reliance on ex-post competition law. It was noted that following the completion of the NBN rollout and the migration of end-users from the legacy copper network, ex-ante regulation is expected to be largely limited to NBN services.

### **Regional Broadband Scheme**

There was discussion around communications policy issues and in particular the Regional Broadband Scheme (RBS) and spectrum reform. Concerns were raised that the RBS would dampen take-up of fixed line services, and distort market outcomes towards those the levy did not apply to such as fixed wireless and mobile broadband providers. It was also noted that if mobile and fixed wireless were substitutes then the charge should equally apply to these technologies.

Some attendees suggested that there may be alternative funding mechanisms for regional and remote services that do not have such a distorting effect on competition and would better facilitate the roll-out of high speed broadband services.

### **Mobile infrastructure access**

There was a view put forward that as small cell architecture (for 5G services) will be critical to the convergence of fixed and wireless networks, open access to small cell wireless infrastructure may be important for competition.

## **Attendees**

### **Australian Competition and Consumer Commission**

#### ***Commissioners***

Commissioner Cristina Cifuentes, Communications Committee Chair  
Chairman Rod Sims  
Deputy Chair Delia Rickard  
Commissioner Roger Featherston

#### ***Staff***

Michael Cosgrave, Executive General Manager, Infrastructure Regulation Division  
Sean Riordan, General Manager, Industry Structure & Compliance  
Clare O'Reilly, General Manager, Mobiles, Transmission & Consumer

Communications Sector Market Study Team: Jane Goldwater, Ed Seymour, Claire Preston, Stephen Farago, Daniel Edmonds, Elyse Shelley, Miriam Kolacz, Chris Ratchford

Other ACCC staff: Grahame O'Leary, Tara Morice, Brendan Staun, Morgan Woodland

#### ***Attendees***

Approximately 30 organisations attended the forum, including representatives from telecommunication service providers, consumer groups, industry bodies, consultancies and government.

Australian Communications and Media Authority (ACMA)

ACCAN

Australian Private Networks (Activ8me)

Axicom

BigAir, Superloop

CEG (Communications Expert Group)

Communications Alliance

Countrytell

Department of Finance

Department of Prime Minister and Cabinet

DigEcon Research

DoCA (Department of Communications and the Arts)

Exetel

Foxtel

Inabox group

Independent Telecommunications Adjudicator

Internet Australia

IoT Alliance

IPSTAR

Macquarie Telecom  
MyNetFone Group  
My Republic  
NBN Co  
Opticomm  
Optus  
Over the Wire  
TasmaNet  
Telstra  
The Treasury  
TPG  
Vocus  
Vodafone  
Wireless Internet Service Provider Association of  
Australia

# ACCC Communications Sector Market Study

## Stakeholder Forum Agenda

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### Monday 3 July 2017

| Time          | Topic   |
|---------------|---|
| 08:30 – 08:45 | <b>Arrival</b>  |
| 08:45 – 09:00 | <b>Welcome by ACCC Chairman Rod Sims</b>  |
| 09:00 – 10:30 | <b>Session 1: Competition across communications technologies</b><br><b>Chaired by ACCC Commissioner Cristina Cifuentes</b><br><p>This session will explore the extent of competition across different communications technologies, such as mobile (including 5G), fixed wireless and fixed networks.</p> <p>This includes considering potential for supply-side substitution between these different network access technologies and issues relating to substitutability such as consumers use of mobile voice and broadband services, technical developments, and the availability and allocation of spectrum for 5G and fixed wireless.</p> |
| 10:30 – 11:00 | <b>Morning Break</b>  |
| 11:00 – 12:30 | <b>Session 2: Promoting competition for NBN services</b><br><b>Chaired by ACCC Commissioner Roger Featherston</b><br><p>This session will explore issues related to the development of effective competition in the supply of services over the NBN.</p> <p>This includes considering the migration experience to date and how competition is evolving, discussion of any barriers to entry or expansion, how the supply of wholesale aggregation services is developing, and the role of regulation in promoting competition.</p>  |
| 12:30 – 13:30 | <b>Lunch Break</b>  |
| 13:30 – 14:30 | <b>Session 3: Open Q&amp;A</b><br><b>Chaired by ACCC Commissioner Cristina Cifuentes</b>  |
| 14:30 – 15:00 | <b>Afternoon Break</b>  |
| 15:00 – 16:30 | <b>Session 4: Meeting growing demand for data</b><br><b>Chaired by ACCC Commissioner Cristina Cifuentes</b><br><p>This session will explore how industry is meeting growing demand for data on fixed and mobile networks. We will also explore the role of NBN pricing, particularly CVC, and implications for competition and consumer outcomes.</p> <p>This includes considering how demand for data will continue to grow (on mobile and fixed networks), the implications for CVC provisioning on the NBN and effectiveness of discount pricing models.</p>   |
| End of Day    |   |

# ACCC Communications Sector Market Study

## Stakeholder Forum Agenda

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**Tuesday 4 July 2017**

| Time              | Topic  |
|-------------------|--|
| 08:45 – 09:00     | <b>Arrival</b>   |
| 09:00 – 10:30     | <b>Session 5: Competition and consumers</b><br><b>Chaired by ACCC Commissioner Delia Rickard</b><br><br>This session will explore consumer-related issues, including what information is available to and used by consumers, and consumer expectations and demand for communication services now and in the future.  |
| 10:30 – 11:00     | <b>Morning Break</b>   |
| 11:00 – 12:30     | <b>Session 6: The future of competition in IoT and other innovative services</b><br><b>Chaired by ACCC Commissioner Roger Featherston</b><br><br>This session will explore how IoT is evolving in Australia and how competition is developing in the supply of IoT services, including considering how IoT standards are being developed, whether there is a role for regulation and implications for consumers' privacy.<br><br>This session will also briefly discuss the growth of over-the-top (OTT) services and implications for network owners. |
| 12:30 – 13:30     | <b>Lunch Break</b>   |
| 13:30 – 14:30     | <b>Session 7: Open Q&amp;A</b><br><b>Chaired by ACCC Commissioner Cristina Cifuentes</b>   |
| 14:30 – 15:00     | <b>Afternoon Break</b>   |
| 15:00 – 16:00     | <b>Session 8: Communications regulation and policy</b><br><b>Chaired by ACCC Commissioner Cristina Cifuentes</b><br><br>This session will explore the implications for regulation and policy of recent and prospective trends in communications services.<br><br>This will include discussing any draft findings from the market study in relation to current communications regulation and/or policy.   |
| 16:00 – 16:30     | <b>Session 9: Wrap up by ACCC Chairman Rod Sims</b><br><br>This session will distil the key issues and themes from across the two days of the forum.   |
| <b>End of Day</b> |  |