TELSTRA GROUP LIMITED

Submission to ACCC
NBN Co Special Access Undertaking Draft Decision
Supplementary Submission

16th June 2023

1 Feedback on NBN Co's pricing options (June 2023)

NBN Co has proposed to remove the ability for RSPs to pool CVC. This is a big step backward for end users and RSPs, at such a late stage and with no consultation with RSPs. It is disruptive and potentially undermines the SAU process. We note RSPs are generally frustrated with the complexity of NBN Co's pricing proposals and the late disruptive changes. If the next iteration of NBN Co's SAU takes CVC pooling away from RSPs, we will no longer have confidence that the SAU process can deliver a timely and reasonable outcome for industry.

1.1 50/20 Cost Certainty

In its submissions accompanying the current (November) SAU proposal, NBN Co encouraged RSPs to migrate heavy-usage customers on 50/20 plans to 100/20 plans, to avoid the potentially high overage costs RSPs would incur if those customers remained on 50/20 plans. NBN Co stated:

> *"In regard to its upsell incentives, nbn expects that access seekers will target those consumers on Bundled TC-4 Offers who have higher than average bandwidth consumption – who are expected to be highly correlated with willingness to pay (e.g., consumers with peak hour throughput of at least 0.5 Mbps above the CVC inclusion for an AVC TC-4 50/20 Mbps service) – and encourage these consumers to upgrade to Home Fast (100/20 Mbps) or above flat rate offers, more suitable for their needs. This is partly driven by the overage arbitrage opportunity where access seekers could face a higher wholesale input cost to provide 50 Mbps and below services to high usage consumers, compared to the cost of serving those consumers via a flat rate offer.*[1]

RSPs are capable of doing such optimisation of their plan mix, and many currently do so. However, it requires time and effort on behalf of RSPs to migrate plans, and NBN Co to accept and undertake those plan migrations.

The ACCC's proposal to have a cap on the 50/20 plan at the 100/20 price would relieve RSPs of that effort to get to broadly the same outcome as plan optimisation. That is, without the cap RSPs would migrate heavy 50/20 users to 100/20 plans. All a cap would do is save RSPs that effort, and instead of forcing RSPs to migrate customers to a 100/20 wholesale speed tier so that the customer would cost $55, NBN Co would allow the RSP to leave the customer on the current plan and just charge RSPs $55. While there might be some marginal customers that are not optimised perfectly, there would be no material difference in NBN Co's revenue from the current (Nov) SAU proposal with and without a price cap as proposed.

However, NBN Co claims that a ceiling would be harmful to NBN Co's revenue. But this is based on a view that RSPs would not optimise many of their customers under the (Nov) SAU proposal, and because of that RSPs would incur the $100-$180 for very high usage 50/20 customers.[2] If NBN Co's view is correct, a $55 cap applying to all customers would have a material impact on NBN Co's revenue. As quid-pro-quo for what NBN believes to be a material revenue impact, NBN Co proposes to remove CVC pooling.

We disagree with NBN Co's view that its revenue would be harmed by a $55 cap, as we believe RSPs would minimise the number of 50/20 customers costing more than $55 by migrating those customers to the 100/20 wholesale speed tier.

[1] NBN Co, Draft Statement of Pricing Intent, 13 Jan 2023, page 7.

[2] This is illustrated in NBN Co, *Response to ACCC Draft Decision: 50/20 Mbps Cost Certainty*, Figure 1, where NBN Co illustrates in orange shading the revenue that NBN Co suggests it would forgo under a price cap. However, that orange shading wouldn't exist under NBN Co's current (Nov) SAU proposal if RSPs migrate those customers to 100/20 plans as NBN Co has suggested.

But that is beside the point. CVC pooling has a substantial benefit for end-users, and removing that would come at a substantial harm to end-users. Any benefit to customers from a cap would be more than outweighed by the removal of CVC pooling.

CVC pooling recognises the diverse range of users on NBN Co's network – with different speed and usage demands. It allows RSPs to purchase CVC capacity on NBN Co's network (often bundled with AVCs) and use it to meet the diverse needs of all its customers. An RSP's CVC capacity can currently be used for customers regardless of their speed tier, so the CVC capacity purchased in 50/20 bundles can be used to meet the needs of 12/1 or 25/5 customers. If a 50/20 customer doesn't use the internet one evening during the peak, then the CVC that their RSPs has purchased for in a 50/20 bundle can be used for a 12/1 or 25/5 customer who is. Without CVC pooling, the 12/1 and 25/5 customers would have to pay for all their usage.

12/1 and 25/5 customers benefit the most from CVC pooling, and this will be even more the case under NBN Co's proposed prices as there are very limited CVC inclusions in NBN Co's proposed bundles. Taking CVC pooling away will harm those customers the most. This means RSPs might not be able to sustain the retail prices they charge for 12/1 and 25/5 customers. This would be harmful to the interests of end users who can only afford lower priced and lower speed plans.

NBN Co introduced this capability on a POI by POI basis, and then expanded it to a national basis in 2020, recognising that "*RSPs will be able to more efficiently use purchased capacity to serve fixed and fixed wireless customers across all [areas] anywhere in Australia, making it simpler for retailers and helping them to manage costs.*"[3]

In terms of the legitimate interests of NBN Co, in our view removing the pooling of CVC would be of far greater benefit to NBN Co than the cost of introducing a price cap on the 50/20 plan. Introducing a cap and removing CVC pooling would increase NBN Co's revenue materially relative to what NBN Co proposed in its Nov SAU, which is not in NBN Co's legitimate business interests. On NBN Co's view of the impact on its revenue, the cost of the cap is equivalent to the benefit to NBN Co of removing CVC pooling. So doing neither, would at best reduce the cost of supplying consumers and at worst make NBN Co revenue neutral.

In terms of RSPs' interests, NBN Co's proposal to remove CVC pooling is a big step backwards for RSPs. It would be better for end-users to have no price cap, than to have a cap and remove CVC pooling.

But if there is no cap, NBN Co must give assurances that it will not establish any barriers to RSPs migrating customers between plans to optimise their costs.

[3] https://www.itnews.com.au/news/nbn-co-to-allow-internet-providers-to-pool-cvc-nationally-534587