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## TELSTRA GROUP LIMITED

### ACCC - superfast broadband access service (SBAS) final access determination inquiry 2021

### Comments on exposure draft of SBAS determination instrument

#### Non-confidential version

21 April 2023

[CIC begins] = information not to be released without a confidentiality undertaking

General



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## TELSTRA COMMENTS ON THE EXPOSURE DRAFT

Telstra welcomes the opportunity to provide feedback on the exposure draft of the proposed final Superfast Broadband Access Service (**SBAS**) determination instrument (**draft instrument**).

This response should be read in conjunction with the earlier submissions Telstra has made to the ACCC during the course of its 2021 SBAS Final Access Determination (**FAD**) inquiry.

### Main body of the draft instrument

Clause 4.3(a) – Telstra supports the proposed continuation of the current requirement for the regulated Fibre Access Broadband (**FAB**) service to support 30 Mbps download and 1 Mbps upload data transfer rates (peak information rate). This will provide certainty and stability to access seekers during the migration of end-users to Uniti and the decommissioning of Telstra’s network infrastructure. This approach also aligns with the ACCC’s findings in its Draft Decision that “*it would be disproportionate regulation to introduce new access terms for the fibre access broadband service during that migration process*”.<sup>1</sup>

However, for drafting clarity and given the technical limitations of the FAB service, we would prefer to retain the existing wording in the Interim FAD for this requirement, which describes the service as:

*“in the case of the Fibre Access Broadband service, that service with the following maximum transmission speeds:*

- (i) download data transfer rate of 30 Mbps (peak information rate)*
- (ii) upload data transfer rate of 1 Mbps (peak information rate)”.*

### Schedule 1 to the draft instrument

In the Definition of Telstra Provider, the word “demerged” should be capitalised in the reference to the defined term “demerged Telstra Company”. Alternatively, for simplicity, the defined terms “Demerged Telstra Company” and “Telstra Provider” could be replaced with a reference to Telstra Limited (ACN 086 174 781), as the company exists from time to time (even if its name is later changed).

### Schedule 2 to the draft instrument

Clause 2.2 – We support the continuation of the regulated prices for the FAB service which are currently included in the Interim Access Determination. For the reasons set out in our response to the ACCC’s Draft Decision, we submit these prices should be set until the earlier of completion of transition to Uniti or the end of the FAD. It would be disproportionate regulation to introduce new pricing terms for the FAB service prior to the completion of the migration process to Uniti (at which point the service will be withdrawn). This would require Telstra to make costly and burdensome changes to billing systems and arrangements<sup>2</sup> and potentially disrupt the transition process to the detriment of end-users.

Clause 2.4 – For the reasons set out in our response to the Draft Decision, we support the proportionate regulatory approach of refraining from applying the new terms regarding ancillary charges to the FAB service.

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<sup>1</sup> Superfast Broadband Access Service access determination inquiry: Draft decision October 2022, p 24.

<sup>2</sup> Noting that the current approach of setting the access price for the FAB service based on the annual service-specific costs of Telstra’s WADSL service avoids causing the material costs and time for implementation that would need to be incurred to accommodate an AGVC price differential between Telstra’s WADSL and FAB products – see further details in our submission to the 2017 FAD inquiry: <https://www.accc.gov.au/system/files/Telstra%20-%20Public%20Submission%20to%20SBAS%20LBAS%20FAD.pdf>



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### Schedule 13

We respectfully submit that these new network performance reporting requirements should only apply to the products specified in 4.3(b) of the FAD, and not to the FAB service. Currently, the transition of services from Telstra to Uniti is scheduled to be completed by the end of March 2024, at which point in time the FAB service will be withdrawn. As Schedule 13 will only commence from 1 January 2024, it is likely to only apply to the FAB service for a single 3-month reporting period during the very final stage of the transition of services to Uniti. Accordingly, the regulatory burden of requiring Telstra to implement arrangements to comply with the new reporting obligations for what is likely to be at the very most one or two reporting periods is likely to far outweigh any benefits of this reporting for customers of the handful of remaining FAB services that will be left to be transitioned across to the upgraded Uniti network. [c-i-c] [c-i-c].

We also note that, unlike other SBAS providers, Telstra provides additional transparency through our obligations to report to the ACCC on the progress of transitions to Uniti under the terms of our exemptions from the Superfast Network Obligations.