



21 September 2018

Mr Ray Abdul Rahim
Senior Analyst | Insurance, Water and Wireline Markets Branch
Infrastructure Regulation Division
ACCC
Email: iarkr@acc.gov.au
cc: ray.abdulrahim@acc.gov.au

Dear Mr Rahim,

Re: Internet Activity – Proposed Record Keeping Rules

Telstra considers it prudent the ACCC augment its monitoring function with information that was previously produced for the ABS. As the ACCC has noted, the data will enable it to appropriately discharge its monitoring function and complement its existing base of information. However we have concerns regarding the specific information being requested. Some of the information requirements are more onerous than those that existed under the previous ABS requirement and will be difficult to meet. Others replicate information available in other forms and via other regulatory instruments and should not be duplicated in this Internet Activity RKR.

In relation to the specific content of the proposed Internet Activity RKR, we provide the following comments:

nbn SIOs by wholesale speed tier

The Internet Activity RKR requires nbn Retail SIOs split by nbn speed tier, a requirement which did not exist under the ABS request. We note this information is similar to that required from nbn co under the NBN RKR. Specifically, Table 4 of the NBN RKR¹ requires nbn co to report on Access Seeker SIO data for TC4 AVC services (best effort broadband services). The NBN RKR requires nbn co to report information by Access Seeker if the count of the TC-4 AVCs acquired by a NBN Access Seeker Group is equal to or more than 1 per cent of the total TC-4 AVCs as at the end of the calendar quarter.

This information is generally substitutable for the information requested by the ACCC under the Internet Activity RKR and as such, we consider that it is not necessary to impose an additional impost on carriers. Further, the data provided under the NBN RKR will provide deeper market insights for the ACCC as it captures total SIOs, not just Retail SIOs.

No data limit plans and Entertainment products

The proposed Internet Activity RKR requires reporting on specific features, namely identifying no data limit plans and those plans bundled with an entertainment product. The requirement to report by specific features was not previously required by the ABS.

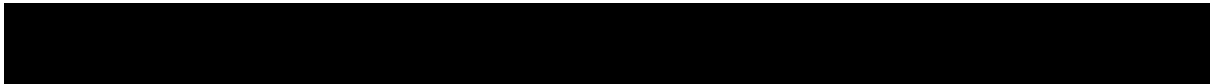
¹ <https://www.accc.gov.au/system/files/D18-40503%20NBN%20SIO%20RKR%20-%20revised%20Disclosure%20Direction%20-%20March%202018.PDF>, pg. 5.



Telstra considers the market is moving to no data limit plans. Telstra's latest broadband bundle offerings include unlimited data² with only one plan offering a data cap. We also note that TPG³ and Optus⁴ only offer unlimited plans, an indication customers are demanding unlimited plans. Given the move to unlimited plans, it is unclear whether the benefit to the ACCC from this information outweighs the burden to RSPs of producing it.

In relation to entertainment products -it is unclear what market insights the ACCC is looking to get from this data and we request further clarity regarding its use. For example, there is a range of entertainment packages a consumer can subscribe to including Foxtel TV, music, sports packages and movies in relation to their Telstra retail service. Telstra cannot easily provide information on the specific entertainment product purchased by consumers. However, we are able to identify those customers who are supplied a Telstra entertainment product in conjunction with a broadband service (i.e. in a Telstra Entertainment bundle) and those that are supplied a Foxtel Now service with their mobile service.

We also note that requiring RSPs to report on entertainment products would only give the ACCC a limited subset of information as there is growing evidence that Australian consumers contract directly with OTT providers such as Netflix and Stan to receive these content packages. **[c-i-c begins]**



[c-i-c ends]

Overlap with the Division 12 RKR

Both the proposed Internet Activity RKR and the Division 12 RKR require provision of SIO information. Given that all submitters of the Division 12 RKR will be required to submit under the Internet Activity RKR, the request for SIO data should be removed from the Division 12 RKR. We also request that the reporting dates be aligned to once a year to minimise duplication for businesses.

Telstra's responses to the specific questions raised in the ACCC's discussion paper are provided in the attachment to this letter.

We would be happy to meet with the ACCC to discuss further these important issues. Should you have any queries on this submission, please contact Kim Longin on (03) 8649 2030 or kim.longin@team.telstra.com.

Yours sincerely

Jane van Beelen
Executive Director – Regulatory Affairs
Corporate Affairs
jane.vanbeelen@team.telstra.com

² <https://www.telstra.com.au/broadband/plans-bundles> (accessed 20 September 2018)

³ <https://www.tpg.com.au/nbn> (accessed 7 September 2018). Refer to NBN50 and NBN 100.

⁴ <https://www.optus.com.au/shop/broadband/home-broadband/plans?category=90Plan24M&=con:bbcat:afeat:bundle:june29:fixed#planstablestart> (accessed 7 September 2018) and <https://www.optus.com.au/shop/broadband/home-broadband/plans?category=90Plan24M&=con:bbcat:afeat:bundle:june29:fixed#planstablestart> (accessed 7 September 2018).



ACCC question	Telstra response
<p>1. Are the definitions and concepts outlined within the proposed RKR easy to understand, accurate and relevant? If not, what changes would you suggest?</p>	<p>The definition of FTTN, FTTB and FTTC as currently drafted would capture all SIOs relating to Telstra's CAN ADSL DSLAMs. We recommend altering the definitions to include a statement that the technology is able to support a superfast carriage service.</p> <p>The definition of DSL should be changed to "means asymmetric digital subscriber line, and is a broadband internet transmission technique" otherwise the reporting requirement for DSL would also capture VDSL which is already being covered by FTTN/B/C.</p> <p>In relation to entertainment products, we request the ACCC provided further clarity regarding intent. For example, there is a range of entertainment packages a consumer can subscribe to including Foxtel TV, music, sports packages and movies in relation to their Telstra service. We are readily able to identify only those customers who are supplied Telstra entertainment product in conjunction with a broadband service in a bundle and those that are supplied a Foxtel Now service with their mobile service.</p> <p>By extension, it should then also be noted that this does not include those packages in which a customer expressly contracts with an OTT provider to supply. For example, if a customer subscribes to Netflix service over and above their Retail service, this will not be included in the Retail SIO count.</p>
<p>2. The ACCC has proposed either a bi-annual (June and December) or annual (December) reporting frequency. What would be an appropriate reporting frequency for the RKR?</p>	<p>In order to minimise the reporting burden on industry, Telstra considers that an annual reporting period is appropriate. Telstra also considers that RSPs should only be required to report as at one point in time (end June) and for data volume, the period April – June, rather than also reporting for December and October – December for data volume. We believe this is sufficient to allow the ACCC to draw appropriate insights into the communications market, and would more closely align with other monitoring RKR's such as the Division 12 RKR which is presently due 30 September (for the period ending 30 June).</p>
<p>3. The ACCC will be aiming to collect information on SIO and volumes of data downloaded by NBN wholesale speed tiers. Will this level of disaggregation allow appropriate insight into the NBN market?</p>	<p>As highlighted above this is a level of disaggregation that was not required by the ABS. In relation to SIOs, the NBN RKR provides disaggregation of all TC4 services by Access Seeker on a three month basis providing significant insight into the market. This information that is already provided by nbn co to the ACCC can readily be used for information regarding SIOs (both retail and wholesale) from a range of Access Seekers.</p>



ACCC question	Telstra response
4. The ACCC has reduced the scope of the information that it proposes to collect. Are there any other RSPs that should be considered for inclusion?	While we support the removal of some redundant aspects in this RKR, we consider these to be minimal and note that some of the information categories have been extended to include requests for more granular information (i.e. data volume by NBN speed tier, SIOs by specific features). We consider that overall, for those RSPs required to submit under this RKR there would be a net increase in the regulatory burden.
5. The ACCC is proposing to make the information collected via the RKR publicly available in aggregate form. Are there any comments you wish to make on this?	Making information on the industry and competitive dynamics publicly available is important for the ACCC's role in monitoring developments of the industry. This is supported.
6. For data users, is the layout of the Output Template easy to understand and fit for purpose? If no, what changes would you suggest?	Yes, Telstra considers the layout of the Output Template is easy to understand and is fit for purpose.
7. Are the proposed data requirements feasible and reasonable? If no, what changes would you suggest?	In some cases no. Please refer to Telstra's main submission for our views on impediments and exceptions.
8. Is the proposed Input Template easy to understand and fit for purpose? If no, what changes would you suggest?	Yes, Telstra considers the proposed Input Template is easy to understand and fit for purpose.
9. The ACCC is proposing to collect estimates on the total volume of data downloaded by subscribers in the 3 months to 30 June, and the 3 months to 31 December, each year, in alignment with ABS IAS collection methodology. Is there a reason not to maintain this approach?	As outlined in Question 2, we consider that information should only be reported at yearly intervals (for the June period only), rather than bi annually. Reporting on a yearly basis is consistent with other RKR's such as Division 12 RKR and is consistent with other publications such as the ACCC's Annual Telecommunications Report.
10. Is a submission due date of two months following the reporting period sufficient to collate and submit all necessary data items requested as part of the RKR? If not, please explain why.	Yes, Telstra considers that a reporting date two months following the reporting period is sufficient to collate and submit all necessary data items requested as part of the RKR. As outlined in our response to Question 2, we consider annual reporting to be more appropriate and will help limit the regulatory burden on RSPs.