

ACCC Dark Fibre and NBN wholesale aggregation services record keeping rules

Background

On 18 February 2019, the ACCC published a consultation paper for proposed Dark Fibre and NBN Wholesale Aggregation Services record keeping rules (RKR). The purpose of this consultation is to seek feedback on:

- The state of the markets
- Whether the ACCC should implement the proposed RKRs
- If the proposed RKRs provide appropriate insight into the markets and are feasible and reasonable.

Vocus Group Limited (VOC) is a specialist fibre network services provider operating Australia’s second largest inter-capital network as well as back haul fibre connecting most regional centres in Australia. Vocus also operates an extensive and modern network in New Zealand, connecting the country’s capitals and most regional centres. In total, the Vocus terrestrial network is c.30,000 route-km of high performance, high availability fibre-optic cable supported by 4,600km of submarine cable connecting Singapore, Indonesia and Australia and 2,100km of submarine cable between Port Hedland and Darwin and connecting offshore oil and gas facilities in the Timor Sea. Vocus owns a portfolio of brands catering to enterprise, government, wholesale, small business and residential customers across Australia and New Zealand.

Vocus welcomes the opportunity to provide a response to this consultation.

Questions

Questions for comment	Vocus’ response
<p>Proposed dark fibre RKR</p> <p>Do you consider that there have been developments in the market for dark fibre since the ACCC market study in 2017-18 that have changed the competitive dynamics of the market?</p>	<p>Vocus is not aware of any significant developments in the market for dark fibre to NBN Points of Interconnect (POIs) since the ACCC’s communications sector market study in 2017-18.</p>
<p>Do you consider that there is a need for an RKR for dark fibre?</p>	<p>There is no need for the ACCC to intervene in the market by introducing an RKR to monitor the supply of dark fibre to NBN POIs.</p> <p>This market should not be looked at in isolation. There are alternative wholesale services that provide high capacity data links to NBN POIs. Different carriers seek dark fibre or alternative services for a variety of reasons, including economics, control and redundancy.</p>

	<p>Providers of transmissions services to NBN POIs are actively competing on price.</p> <p>An RKR for dark fibre to NBN POIs would also not achieve the ACCC's objectives as set out in the consultation paper.</p> <p>The responses to the RKR would not enable the ACCC to determine whether the market is functioning effectively. The RKR will not provide insight on matters including:</p> <ul style="list-style-type: none"> ▪ whether carriers have found alternative options to access NBN POIs (such as managed transmission/wavelength services), ▪ situations where dark fibre was sought but was unable to be supplied; ▪ an infrastructure owner's willingness to offer dark fibre should it be requested.
<p>Proposed NBN wholesale aggregation RKR</p> <p>Do you consider that the NNI Link product from NBN Co or other developments since the ACCC market study in 2017-18 have changed the competitive dynamics of the market for wholesale aggregation services?</p>	<p>Vocus commercially launched an NNI Link product in February 2019. This product is a new wholesale option for retail service providers (RSPs) wanting to connect to NBN Co's network.</p> <p>For smaller RSPs, the supply of the NNI link product provides:</p> <ul style="list-style-type: none"> ▪ additional flexibility flowing from the ability to maintain a direct relationship with NBN Co for the supply of access products, together with ▪ the benefits of aggregation services for NBN POI backhaul.
<p>Do you consider that there is a need for an RKR for NBN wholesale aggregation services?</p>	<p>There is no need for an RKR to monitor the supply of NBN wholesale aggregation services. The market for NBN wholesale aggregation services is competitive with multiple providers, including Vocus, offering differentiated services to RSPs at the layer 2 and layer 3 level.</p> <p>Vocus offers wholesale NBN services with our Network Connect and Reseller Products. The NBN Network Connect product provides a simple layer 2 solution to offer high volume and larger margins. The NBN Reseller Connect product is a fully packaged NBN product, bringing together a full layer 3 solution with access, provisioning, delivery, reporting and internet.</p> <p>The shared concern of Vocus and our wholesale customers is that the NBN product is not currently economic or sustainable in the consumer market. The key issues include:</p> <ul style="list-style-type: none"> • Variable nature of NBN pricing model (CVC) is incompatible with fixed prices paid by end users • Lack of pricing stability and multiple pricing constructs • NBN pricing is simply too high.

	<p>These concerns are the very real barrier to entry into the retail fixed broadband market for new RSPs and expansion for smaller RSPs.</p> <p>Moreover, given the very low margins available in reselling NBN services, Vocus takes on substantial business and credit risk of providing services to smaller resellers in the NBN wholesale market.</p>
<p>Parties subject to the proposed RKR</p> <p>Are there any other service providers that should be considered for inclusion in the scope of the proposed RKR (see pages 16 & 17 of the consultation paper)? Alternatively, should any listed not be included?</p>	<p>Vocus does not support the implementation of the proposed RKR. In the event that this position is not accepted by the ACCC, other niche providers of dark fibre should be included within the scope of the RKR if they have dark fibre within the vicinity of an NBN POI. For example, power companies with fibre assets may be the best source of supply for RSPs seeking dark fibre services.</p>
<p>Proposed frequency of RKR</p> <p>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 proposed RKR? If not, please explain why.</p> <p>Do you support the proposed quarterly reporting frequency until 30 June 2021 with the RKR being reviewed leading up to this date (following the completion of the NBN rollout)?</p>	<p>The submission due date of two months following the reporting period is sufficient.</p> <p>However, Vocus does not support a proposed quarterly reporting frequency given the significant compliance burden. Any RKR should be limited to an annual report from relevant providers.</p>
<p>Information to be collected in the proposed RKR</p> <p>Do you consider the information proposed to be collected for dark fibre services would provide an appropriate insight into the market?</p>	<p>Vocus does not support the implementation of the RKR. The information proposed to be collected would not provide an appropriate insight into the market for dark fibre services to NBN POIs, for the reasons outlined above.</p>
<p>Information to be collected in the proposed RKR</p>	<p>Vocus does not support the implementation of the RKR. The information proposed to be collected for NBN wholesale</p>

<p>Do you consider the information proposed to be collected for NBN wholesale aggregation services would provide an appropriate insight into the market?</p>	<p>aggregation services would not provide insight on other challenges that RSPs face in selling NBN services.</p> <p>Vocus submits that any concerns faced by RSPs in purchasing wholesale services reflects issues with NBN Co's underlying products and pricing rather than with the NBN wholesale aggregation services supplied by Vocus and other aggregators.</p>
<p>General</p> <p>Are the definitions and concepts outlined within the proposed RKR documents (Attachments A and B) easy to understand, accurate and relevant? If not, what changes would you suggest?</p> <p>For wholesale providers - are the proposed data requirements, as outlined in Attachments A and B, feasible and reasonable? If no, what changes would you suggest?</p> <p>What additional costs do service providers expect to incur in complying with the data requirements outlined in Attachments A and B? Do you think there are any refinements that could be made to further reduce compliance costs, whilst also ensuring that the requirements are fit for purpose and meet the objectives outlined?</p>	<p>Vocus would incur additional costs and operational overhead to comply with the requirements in the proposed RKR. At a time when Vocus is working toward simplification of its systems and processes, manual processes and/or systems investments will need to be implemented to comply with the RKR across our national network.</p> <p>As a challenger, compliance with a further RKR on top of the existing voluminous reporting already provided would present a considerable burden in the context of limited resources.</p> <p>Any benefit that may flow from these RKR does not outweigh the costs to industry of this regulatory intervention.</p>
<p>Any other matters relating to the introduction of dark fibre and NBN wholesale aggregation services RKR?</p>	<p>The markets for services to NBN POIs and NBN wholesale aggregation services should be allowed to develop without the significant burden of regulatory reporting requirements.</p> <p>It is very unlikely that any benefits of the proposed regulatory intervention will outweigh the costs.</p> <p>Infrastructure competition is in the long-term interests of end users. However, reporting requirements under RKR are an indication to infrastructure owners that there is a heightened risk of further regulation. An unintended consequence of introducing these RKR, may be reducing the incentives for investment in new infrastructure to the detriment of wholesale customers and end users.</p>

	Further, NBN Co's behaviour has an impact on investment in the NBN POI backhaul market. NBN Co artificially limits the value of delivering dark fibre to an NBN POI given its very expensive setup charge when the optic required to light the dark fibre is >10Kms, which is a majority of the time. The RSP is then forced to purchase a rack in the facility to make the use of the dark fibre viable. This rack is also priced well above market rates.
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Please direct any questions regarding this submission to:

Leanne O'Donnell
Regulatory Affairs Manager
Vocus Group
(03) 9132 8455
Leanne.ODonnell@vocus.com.au

Vocus Group
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