

26 October 2018

Mr Michael Cosgrave  
Executive General Manager  
Infrastructure Regulation  
Australian Competition and Consumer Commission  
GPO Box 520  
Melbourne VIC 3001

By email: [michael.cosgrave@acc.gov.au](mailto:michael.cosgrave@acc.gov.au)

Dear Mr Cosgrave,

### Withdrawal of nbn's Special Access Undertaking Variation

We refer to the Special Access Undertaking Variation lodged by **nbn** with the Australian Competition and Consumer Commission (**ACCC**) on 22 June 2017 (**SAU Variation**).

**nbn** wishes to inform the ACCC that it withdraws the SAU Variation with immediate effect.

The SAU Variation proposed to vary the NBN Co Special Access Undertaking accepted by the ACCC on 13 December 2013 (**SAU**) to, amongst other things, introduce the MTM technologies within the scope of the pricing and product provisions of the SAU.

The ACCC extended the decision-making period for the SAU Variation on several occasions, including due to the need to consider the outcomes of **nbn's** pricing consultation and market responses.

Since lodgement of the SAU Variation, **nbn** has undertaken several pricing and discounting initiatives and pricing evolution industry consultations. These have included the DBD-R discounting initiative, the Focus on 50 Promotion and the recent launch of the high bandwidth, fixed wireless and entry level bundles discounts.

The outcomes from these pricing initiatives have been very positive, promoting the long-term interests of end users. For example, the percentage of AVC TC-4 services (excluding satellite) that are on 50/20 Mbps (or 5-20/25-50 Mbps) or higher speed tiers increased from 16% as at September 2017 to 50% as at September 2018. Over the same period, average network bandwidth (CVC) congestion decreased from 256 minutes per week to 38 minutes per week.

As **nbn** has emphasised on many occasions, **nbn** has economic and financial incentives that align closely with RSPs and end users. Indeed, **nbn** will continue to pro-actively consult with RSPs on new pricing and discounting initiatives and will ensure that RSPs continue to play a key role in influencing the design of **nbn's** pricing and discounting arrangements.

#### **Going forward**

In light of **nbn's** recent pricing and discounting initiatives and feedback from some RSPs and the ACCC during the 2016-17 LTRCM process regarding the need for further guidance on the use of discounts under the SAU, **nbn** has decided to withdraw the SAU Variation.



**nbn** plans to re-lodge a new SAU variation, and will seek to do so as soon as practicable. The additional areas which **nbn** proposes the new SAU variation will cover will include affording additional price certainty to RSPs regarding **nbn**'s pricing and discounting approach going forward, while also providing a reasonable degree of flexibility to **nbn** to price experiment and introduce innovative and efficient pricing arrangements to promote the long-term interests of end-users. The new SAU variation will also include the variations previously included in the SAU Variation.

**nbn** will also consider whether some further updating of the SAU should also be included in the new SAU variation.

We would be happy to discuss any of the above with you.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Stephen Rue', is written in a cursive style.

Stephen Rue  
Chief Executive Officer