



**Our ref: AA1000483**

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12 June 2020

Dear madam or sir

**Re: NBN Co - application for authorisation AA1000483 - request for information on conduct under interim authorisation**

We refer to the Australian Competition and Consumer Commission's decision of 31 March 2020 to grant conditional interim authorisation to NBN Co and members of the Special Working Group (**SWG**), including your organisation, to coordinate with other members to manage your response to the COVID-19 pandemic (**Interim Authorisation**).

We are preparing our draft determination in relation to this matter, and we are considering the potential revocation of the Interim Authorisation. As part of these processes, we are also looking at narrowing the scope of the authorised conduct under the Interim Authorisation and any future authorisation in this matter. In that context, we are requesting information to assist us in considering one particular way in which the scope of the authorised conduct could potentially be narrowed.

The Interim Authorisation authorises SWG members to, amongst other things, "discuss, enter into or give effect to any arrangement between them" that has one or more of the purposes set out in paragraph 6 of the Interim Authorisation. We are considering narrowing the scope of the Interim Authorisation, and any future authorisation, so that it only covers discussions, arrangements or conduct that occur at, in preparation for, or arise out of, a meeting of the SWG.

To assist us in assessing whether narrowing the scope of the Interim Authorisation, and any future authorisation, in this way would be appropriate, could you please provide, by 26 June 2020:

- a detailed report of the conduct that your organisation has engaged in under the Interim Authorisation but outside of the SWG meetings (if any), including the nature of any discussions held, the information and/or documents shared, and any understandings that your organisation has reached, and
- a description of the conduct that your organisation is likely to engage in under the interim authorisation in future, outside of the SWG meetings (if any).

More generally, you may also be aware that we [wrote to NBN Co on 4 June 2020](#) seeking a submission on other issues relating to the Interim Authorisation and the draft determination. We would welcome a submission from your organisation should you wish to provide separate comments on those matters.

This letter will be placed on the public register. Any response from you will also be placed on the public register, unless you have made a request with reasons for us to exclude part or all of your response. Please see our [Guidelines for excluding information from the public register](#) for more information on how to make a request and how we assess requests.

If you wish to discuss any aspect of this matter, please do not hesitate to contact William Shrubbs on (02) 9230 9182 or [william.shrubbs@acc.gov.au](mailto:william.shrubbs@acc.gov.au).

Yours sincerely

Kai Fu  
Director  
Adjudication