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**Australian
Competition &
Consumer
Commission**

Our Ref: A91271-A91273
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14 November 2011

Georgina Foster
Partner
Baker & McKenzie
Level 27, AMP Centre
50 Bridge Street
Sydney NSW 2000



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Dear Ms Foster

**NBN Co Limited - applications for authorisation A91271-A91273
- request for further information**

I refer to the above mentioned applications for authorisation lodged with the Australian Competition and Consumer Commission (the **ACCC**) on 29 August 2011 (the **Applications**). I also refer to the response by SingTel Optus Pty Ltd and other Optus entities (**Optus**) on 10 October 2011 to the ACCC's request of 23 September 2011 (the **Request**).

The purpose of this letter is to seek further information from Optus concerning the Optus HFC network to assist the ACCC in its assessment of the Applications.

I note that some of the information sought by the ACCC may contain details that are commercially sensitive and confidential to Optus. A copy of the ACCC's publication *Guidelines for excluding information from the public register for authorisation, merger clearance and notification processes* has previously been provided for your information.

So that the ACCC's consideration of the Applications can proceed in a timely manner, the ACCC would welcome receiving Optus' response by 12pm **21 November 2011**.

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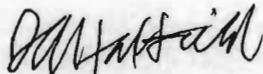
Information sought from Optus:

1. In response to question 17 of the Request, Optus provided details of the expenditure categories that comprise the estimate of Optus' [redacted] annual expenditure that it would avoid as a result of the transaction with NBN Co. Further to this information, please provide:
 - a) a breakdown of the expenditure estimates, including the amount attributed to each of the identified expenditure categories (that is, power costs, pole rental costs, repair and maintenance costs, logistics and vendor support costs, maintaining and operating the Optus Cable Modem Terminating System, customer connection costs, investment in the core network to support the HFC network), including the historical costs on which the estimate was based.
 - b) for each expenditure category identified above, an indication of whether similar costs would need to be incurred by the NBN in servicing Optus customers.
 - c) confirmation that none of the costs identified in the response of 10 October 2011 associated with Optus' ongoing use of the HFC network would continue to be incurred by Optus after customer migration as proposed by the Optus HFC Subscriber Agreement.
 - d) details of whether the expenditures identified above are likely to vary depending on how many customers continue to be serviced on the Optus HFC network (and if so which expenditures and by how much).
 - e) the number of customers Optus has assumed would continue to be serviced by the Optus HFC network in estimating the size of these expenditures.
2. Please provide an estimate of Optus' cost per broadband user under the Optus HFC Subscriber Agreement in areas currently serviced by the Optus HFC network (including the cost of wholesale access to the NBN). Please also provide Optus' costs per broadband user that would be incurred if Optus was to continue to provide these services on its HFC network. Please provide assumptions underpinning these estimates (for example, assumed customer numbers).
3. Based on the current usage of the Optus HFC network, please provide an estimate of the additional annual opex and capex costs that would be incurred by Optus if it were to provide high speed broadband services, assuming a similar average data rate to that currently provided, to an additional:
 - a) 100,000 subscribers
 - b) 500,000 subscribers
 - c) 750,000 subscribers.
4. Based on the current usage of the Optus HFC network, please provide an estimate of the average maximum downstream data rate and the average downstream data rate combining both DOCSIS 1.1 and 3.0 (consistent with the assumptions used to compile the estimated data rates at p. 2 of the Optus response to the ACCC information request) that would be provided by Optus to end-users if it were to provide broadband services using its HFC network to an additional:
 - a) 100,000 subscribers

- b) 500,000 subscribers
 - c) 750,000 subscribers.
5. Please provide an indication and supporting reasons, of the expected differences in Optus' broadband pricing under the Optus HFC Subscriber Agreement compared to if Optus were to continue to provide these services to users on its HFC network.
 6. Does Optus currently differentiate in its retail pricing to customers for services offered over its HFC network and services provided over the Telstra copper network? If yes please provide details.
 7. Does Optus currently undertake direct marketing campaigns to consumers located within its HFC footprint that differs from its national marketing campaigns? If yes please provided details of promotions offered to consumers within the HFC footprint.
 8. If the Optus HFC Agreement were not to be authorised what would the effect be on Optus' retail pricing (a) within its HFC footprint; and (b) outside of its HFC footprint?

A redacted version of this letter will be placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Susan Philp (02 6243 1347) or Luke Griffin (02 6243 1114).

Yours sincerely



David Hatfield
Acting General Manager
Adjudication Branch