



**Australian
Competition &
Consumer
Commission**

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Sent via email

Dear Sir / Madam

NBN Co application for re-authorisation (A91479-A91481) – final determination and informal merger review

The Australian Competition and Consumer Commission (the ACCC) has issued a determination in respect of the application for authorisation lodged by NBN Co on 12 February 2015.

The revised arrangements for which NBN Co sought re-authorisation involves customers being progressively migrated to the NBN as NBN Co integrates the relevant parts of Optus' HFC network into the NBN. It also involves an obligation on Optus to use the NBN for 15 years, Optus sharing spectrum on its HFC network so that NBN Co can offer services prior to taking ownership of that network, and NBN Co performing certain other preparatory upgrade works on Optus' HFC network.

The broader commercial arrangements between NBN Co and Optus involve a proposal for NBN Co to acquire certain Optus HFC assets. The ACCC has also completed its assessment of the proposed acquisition of Optus' HFC assets under section 50 of the *Competition and Consumer Act 2010* (the Act).

Determination

A copy of the ACCC's determination and summary of its reasons is attached.

For the reasons set out in its determination, the ACCC grants authorisation to NBN Co for the revised HFC network arrangements with Optus for 35 years.

Application for review

Pursuant to section 101 of the Act, a person dissatisfied with this determination may apply to the Australian Competition Tribunal for its review. An application for review must be made within 21 days of the date of this determination; that is, on or before 18 September 2015. If no application to review is lodged by this date, the ACCC's determination will come into force on 19 September 2015.

An application for review of the ACCC's determination should be lodged directly with the Australian Competition Tribunal. The Australian Competition Tribunal is a separate body from the ACCC and is located within the Federal Court of Australia.

Proposed acquisition of Optus' HFC assets

As you may recall, the proposed acquisition of Optus' HFC assets was considered by the ACCC under section 50 of the Act, in conjunction with the re-authorisation application.

The ACCC has decided not to oppose the proposed acquisition under section 50 of the Act.

Further information relevant to the ACCC's decision on the proposed acquisition is available from the [Mergers Register](#).

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter please contact Jaime Martin on (03) 9290 1477 (or jaime.martin@acc.gov.au) or David Hatfield on (02) 6243 1266 (or david.hatfield@acc.gov.au).

Yours sincerely

A handwritten signature in black ink, appearing to be 'Rami Greiss', written in a cursive style.

Rami Greiss
Executive General Manager
Merger & Authorisation Review