


**Email**

21 August 2020

Mr Kai Fu  
Director, Adjudication  
Australian Competition and Consumer Commission  
23 Marcus Clarke Street  
CANBERRA ACT 2601



Dear Kai

**nbn co Limited: Request for the Extension of the Authorisation Period**

1. We refer to the following excerpt at paragraph 5.37 of the ACCC's draft determination of 5 August 2020 in relation to the application for authorisation AA1000483-1 lodged by NBN Co Limited (**nbn**) on behalf of itself and other members of the Special Working Group (**SWG**) of telecommunications carriers (**Draft Determination**):

*Following this draft determination and prior to the ACCC's final determination, should it become apparent that the impact and extent of the pandemic is likely to extend beyond this proposed period of authorisation, it is open to the members of the Special Working Group to request and for the ACCC to consider granting final authorisation for a longer period.*

2. Further, at paragraph 5.35 of the Draft Determination, the ACCC foreshadowed the potential for the need to extend the period of authorisation in light of the uncertainty surrounding the Victorian outbreak.
3. The SWG has been carefully monitoring the circumstances in Victoria and **nbn** notes the ongoing persistence of COVID-19 cases, the corresponding potential for lockdown measures to continue longer than initially anticipated, and the potential for a further outbreak to spread beyond Victoria.
4. The magnitude of the recent growth in data demand has resulted in the SWG returning to more frequent meetings and again focusing on capacity optimisation measures, such as the recent recommendation to the main Over the Top (OTT) video streaming providers to reintroduce their voluntary bitrate reduction measures.
5. It is evident that the SWG's ability to discuss, agree, and implement capacity optimisation strategies will therefore continue to be crucial and rapid responses to protect the effective operation of the network, and the data transmission rates of services supplied by retail service providers over the **nbn**<sup>TM</sup> network, may be needed for longer than expected.
6. Accordingly, **nbn** requests that, as a precaution, the period for which the ACCC proposed to grant conditional authorisation be extended from 31 January 2021 to 31 March 2021. Given that there is no clear indication of the circumstances in Victoria improving, **nbn** makes this request as a matter of caution and to ensure continued operation and optimisation of Australia's telecommunications networks.

Mr Kai Fu, Australian Competition and Consumer Commission

21 August 2020

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We look forward to your response.

Yours sincerely



**Bruce Lloyd, Partner**



**Linda Evans, Partner**



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