

25 October 2012

statementdifferences@accc.gov.au

analena.gilhome@accc.gov.au

Analena Gilhome
Director, NBN Co Access Co-ordination – Communications Group
Australian Competition and Consumer Commission
Level 35, 360 Elizabeth Street
Melbourne, VIC 3000

Dear Ms Gilhome

Statement of differences—Wholesale Broadband Agreement term extension

As of 18 October 2012, 46 access seekers had entered into access agreements based on the Wholesale Broadband Agreement (**WBA**). The WBA is available on NBN Co's website as a standard form of access agreement (**SFAA**).

When entered into by these access seekers, the term of the WBA expired on 30 November 2012. NBN Co has offered an extension of the current WBA until the earliest of 30 April 2013 and one month after the date on which NBN Co's Special Access Undertaking is accepted by the ACCC. The variation agreement in the form of an Extension Notice providing for this extended term was published as part of the SFAA on 4 October 2012.

The Extension Notice mechanism set out at clause F2.2 of the WBA requires access seekers to provide this notice no later than 40 Business Days prior to the expiry of the WBA. As some access seekers were unable to do so in sufficient time, an amended version of the Extension Notice dated 11 October 2012 included a provision stating that the Extension Notice would be considered valid even if the 40 Business Day requirement was not met. The 11 October 2012 version of the Extension Notice was provided to all access seekers requesting it. A list of access seekers that have executed the 11 October version of the Extension Notice, which took effect once executed by NBN Co on 18 October 2012, is provided at **Attachment A** to this letter.

NBN Co is providing this statement of differences in the form specified in the *Part XIC non-discrimination guidelines* published by the ACCC in April 2012.

Enclosed is a marked-up copy of the Extension Notice (as executed by the access seekers listed in **Attachment A**), for the purpose of specifying how these Extension Notices executed on 18 October 2012 differ from the SFAA published as at that date.

Any terms not defined in this letter should be read as defined in the marked-up copies of the relevant parts of these access agreements provided with this letter.

NBN Co provides this statement of differences having regard to section 152BEBA of the CCA. While it is not at this time the intention of NBN Co to update the SFAA to reflect the differences set out in the attached markup of the Extension Notice, any access seekers requesting the difference in question will be offered it. The difference in question relates only to the mechanism being used to extend the term of access seekers' access agreements, and will have no other implications. Regardless of whether an



access seeker executes the Extension Notice in the form provided for in the SFAA or in the form dated 11 October 2012, the result will be an access agreement with the amended term as set out above.

Please do not hesitate to contact me if you have any queries.

Sincerely,

A handwritten signature in blue ink that reads 'Caroline Lovell'.

Caroline Lovell
Principal, Regulatory Affairs and Industry Engagement

**Attachment A:
Wholesale Broadband Agreement customers that entered into the form
of Extension Notice dated 11 October 2012**

1. Macquarie Telecom Pty Ltd
2. NEC Australia Pty Ltd
3. Network Technologies (Aust) Pty Ltd
4. Nextgen Networks Pty Ltd
5. Telco In a Box Pty Ltd
6. Telstra Corporation Ltd¹

¹ While the form of Extension Notice entered into by Telstra Corporation Ltd was dated 4 October 2012, its terms were the same as those set out in the 11 October 2012 form of Extension Notice by the other access seekers listed in this Attachment A.