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## Submission

12 January 2024

Communications Group  
Australian Competition and Consumer Commission

### Re: Consultation on NBN Co's proposed Cost Allocation Manual

The Australian Communications Consumer Action Network (**ACCAN**) thanks the ACCC for the opportunity to comment on NBN Co's proposed Cost Allocation Manual (**CAM**).

ACCAN is the peak body that represents consumers on communications issues including telecommunications, broadband, and emerging new services. ACCAN provides a strong unified voice to industry and government as we work towards communications services that are trusted, inclusive and available for all.

The CAM sets out NBN Co's proposed framework for the allocation of costs between 'core' monopoly services and competitive non-monopoly services. The attribution and allocation of costs has a profound effect on the wholesale prices ultimately faced by residential and small business consumers of monopoly core services. Further, how costs are attributed and allocated to competitive non-monopoly services will have competitive and efficiency implications for companies competing with NBN Co in the delivery of these services.

The proposed CAM provides insufficient detail for ACCAN to have a transparent view of NBN Co's cost allocations. Accordingly, ACCAN considers that further revision to the CAM is required to strengthen it and ensure that consumers only pay for the component of NBN costs that can be attributed to the delivery of the residential and small business services that they receive.

ACCAN's response to the consultation questions are set out in further detail in **Attachment A**. As we have previously noted in conversations with NBN Co, resourcing constraints preclude us from providing detailed feedback on matters relating to NBN economic regulation, and our comments are limited to key areas of concern.

We thank the ACCC for the opportunity to comment on the CAM. Should you wish to discuss any of the issues raised in this submission further, please do not hesitate to contact me at [gareth.downing@accan.org.au](mailto:gareth.downing@accan.org.au).

Yours sincerely,

Dr Gareth Downing  
Deputy CEO

## **Attachment A: ACCAN response to questions**

### **1. Is the proposed CAM consistent with the cost allocation principles in NBN Co's SAU?**

ACCAN considers the proposed CAM is broadly consistent with the principles in NBN Co's SAU. However, while it is in principle consistent with the SAU, we do not consider that the CAM as specified will result the efficient allocation of costs.

### **2. Does the proposed CAM address the issues identified above raised by stakeholders regarding the draft indicative CAM submitted by NBN Co as part of its SAU variation proposal in November 2022?**

The proposed CAM represents a material step forward in addressing the concerns regarding potential cross-subsidisation and transparency raised by stakeholders in previous consultations. However, while it is an improvement, in ACCAN's view there are still issues with the proposed CAM. ACCAN considers that further information and detail is required from NBN Co to clarify the intended treatment of direct and shared costs and ensure that the CAM drives the efficient allocation of costs.

### **3. Does the proposed CAM provide sufficient detail to provide transparency over how costs are allocated between NBN Co's monopoly and competitive services?**

In ACCAN's view the level of detail provided in the proposed CAM is insufficient to provide adequate transparency over the intended allocation of costs between NBN Co's monopoly and competitive services. As an example, ACCAN notes that there is no causal indicator given to capital expenditure on network facilities and non-network assets.<sup>1</sup> NBN Co stated that it would avoid allocating causal relationships if 'establishing a causal relationship would require undue cost or effort in which case an alternative suitable allocator will be used'.<sup>2</sup> ACCAN believes that NBN Co should articulate the basis for this assessment where allocators have not been proposed.

### **4. Is the cost allocation methodology in the proposed CAM and its approach to allocators for costs directly attributable to and shared between NBN Co's monopoly and competitive services consistent with the economic principles of efficient cost allocation?**

In ACCAN's view the proposed CAM, and its approach to allocation of costs for direct and shared costs, is not consistent with the economic principles of efficient cost allocation. ACCAN notes that there are several cost categories where the proposed application of allocators is unclear and consequently may lead to inefficiency.

Further, we note that for some proposed allocators the underlying economic rationale for the nomination of allocators appears to be weak. For example, the proposed use of Active Premises – LTD (all services) as an allocator for the sharing of fleet costs does not logically flow from the stated causality relationship, namely that costs are driven by the increasing size of the nbn network or number of active network connections. While this factor undoubtedly has a causal impact on NBN Co's fleet requirements it is not the sole causal factor of relevance in determining fleet requirements and costs. For example, fleet requirements are also determined by the mix and geographic distribution of network infrastructure technology types, depot placement and route optimisation.

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<sup>1</sup> NBN Co (2023) *NBN Cost Allocation Manual*, p.14. Available at: <https://www.accc.gov.au/by-industry/telecommunications-and-internet/national-broadband-network-nbn-access-regulation/nbn-co-cost-allocation-manual-november-2023>

<sup>2</sup> *Ibid*, p.10.

ACCAN notes that more sophisticated approaches to the determination of fleet size and costs have been adopted in the context of energy distribution networks, where geographic distribution and demand for fleet assets has been identified key driver of costs. Accordingly, we consider that further detail and information should be provided to strengthen the proposed CAM.

**5. Does the proposed CAM mitigate the risk of NBN Co cross subsidising its competitive services from its monopoly services?**

As noted above, the proposed CAM does not provide sufficient information for the allocation of costs to be fully transparent. Accordingly, ACCAN considers that the CAM as proposed does not provide sufficient certainty that NBN Co would be constrained from cross-subsidising its competitive services from its monopoly services.

For example, ACCAN notes that under the directly attributable capital expenditure subheading, the justification for sharing the cost allocation for fibre cable assets because ‘fibre cable assets constructed to deliver an EE service are considered shared capital expenditure and treated as a shared cost because they will also be utilised for Core Regulated Services in the future.’<sup>3</sup>

ACCAN encourages NBN Co to provide further supplementary evidence, to strengthen the proposed CAM and clarify how these costs are proposed to be split. Further clarification will help reduce the risk of cross-subsidisation within shared costs.

**6. Does the proposed CAM incorporate appropriate governance and accountability arrangements for application of the CAM and internal compliance, periodic review and updating within NBN Co?**

ACCAN notes that the proposed CAM provides limited information on how governance and accountability arrangements will operate to ensure adherence to the CAM. Further, we note that the CAM documentation provides limited detail on internal compliance. Embedding compliance and reporting frameworks into NBN Co’s operations is critical, as it will help record the necessary data to support the efficient allocation of costs. Accordingly, we request NBN Co provide further information on the collection and utilisation of data, cost allocation methods and expenditure items.

**7. Is the proposed CAM consistent with best practice regulation of other utility businesses, with respect to transparent cost allocation arrangements where a regulated business operates in both monopoly and competitive markets?**

ACCAN considers that the proposed CAM, while a material advancement on the frameworks previously proposed by NBN Co, should be strengthened to bring it into alignment with best practice. We note that best practice CAMs adopted in the energy sector provide for clear and unambiguous treatment of direct and shared costs.

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*The Australian Communications Consumer Action Network (ACCAN) is Australia’s peak communication consumer organisation. The operation of ACCAN is made possible by funding provided by the Commonwealth of Australia under section 593 of the Telecommunications Act 1997. This funding is recovered from charges on telecommunications carriers.*

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<sup>3</sup> Ibid, p.12.