



# Proposed NBN Co cost allocation manual

## **Consultation paper**

November 2023

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Australian Competition and Consumer Commission  
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# Abbreviations and acronyms

ACCC	Australian Competition and Consumer Commission
CAM	Cost allocation manual
CCA	<i>Competition and Consumer Act 2010 (Cth)</i>
FTTB	Fibre to the Building
FTTC	Fibre to the Curb
FTTN	Fibre to the Node
FTTP	Fibre to the Premises
HFC	Hybrid Fibre Coaxial
LTIE	Long-term interest of end-users
NBN	National Broadband Network
NBN Co	National Broadband Network Company Limited
SAU	Special access undertaking

# Executive Summary

We are seeking stakeholder submissions on a proposed Cost Allocation Manual (CAM) lodged by NBN Co with the ACCC on 16 November 2023 as required under NBN Co's Special Access Undertaking (SAU).

Under NBN Co's SAU, NBN Co is required to lodge a proposed CAM with the ACCC for its assessment. NBN Co is also required to account for separate cost bases for its monopoly (i.e., core) and competitive services by applying the SAU's cost allocation principles and the methodology in a CAM approved by the ACCC.

This consultation paper outlines key elements of the SAU's cost allocation framework and NBN Co's proposed CAM and identifies issues on which we are seeking comment.

The ACCC has three-months from the date NBN Co lodged its proposed CAM to assess the manual unless this time frame is extended.

NBN Co's proposed CAM, and supporting submission and report, are available on the ACCC's website.

We are seeking written submissions from stakeholders by **12 January 2024**.

# 1. Background

On 17 October 2023, the ACCC accepted NBN Co's proposed variation to its Special Access Undertaking (SAU) submitted in August 2023. The varied SAU establishes a new framework for regulating access to the NBN, and sets out various price and non-price terms.

The SAU specifies cost allocation principles.<sup>1</sup> These principles provide a basis for the cost allocation framework set out in the SAU, which NBN Co will be required to develop in a way that will safeguard competition and encourage efficient use of NBN services.

The cost allocation framework includes requirements for NBN Co to categorise services into core and competitive services and reflect their costs in a building block model.<sup>2</sup> Under the SAU, NBN Co is required to account for separate cost bases for its monopoly (core) and competitive (non-core) services, by applying the SAU's cost allocation principles<sup>3</sup> and the methodology contained in an approved CAM.

Under the SAU, NBN Co is also required to propose to the ACCC for its assessment:

- a cost allocation manual (CAM), and
- an accounting separation record keeping, reporting and external assurance framework.<sup>4</sup>

NBN Co was required to lodge its proposed CAM with the ACCC by 16 November 2023 and is required to lodge an accounting separation record keeping, reporting and external assurance framework by 31 March 2024. The ACCC has three months from these dates to complete its assessments of the proposals unless this time frame is extended.

Our review of the proposed CAM will assess whether it is consistent with the cost allocation principles as required under the SAU. Our review will include consideration of whether the proposed CAM mitigates the risk of NBN Co cross subsidising its competitive services from its monopoly services and is consistent with best practice regulation of utility businesses.

NBN Co operates as a wholesale only provider of core and competitive services. Its core services are subject to the SAU's regulatory requirements including maximum regulated prices, price controls and benchmark service standards. NBN Co can set prices and other terms for its competitive services outside of the SAU framework.

An objective of the CAM is to support the future determination of efficient costs for NBN Co's core services under the SAU. The CAM and the accounting separation, record keeping, reporting and assurance procedures are also intended as safeguards against NBN Co cross subsidising its competitive services from its monopoly services in a manner that is inefficient or anti-competitive.

The ACCC's final decision on the varied SAU stated that we were satisfied the SAU's cost allocation principles are reasonable, would promote the long-term interest of end-users and provide a sound basis for the cost allocation framework set out in the SAU. We also noted

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<sup>1</sup> NBN Co, August 2023 SAU variation, Module 2, Schedule 2G.6.2.

<sup>2</sup> ACCC, final decision, NBN Co's SAU variation, October 2023, pp. 75-76.

<sup>3</sup> NBN Co, August 2023 SAU variation, Module 2, Schedule 2G.6.2.

<sup>4</sup> The SAU requires NBN Co to submit to the ACCC, by 31 March 2024, a document setting out proposed accounting procedures and a methodology for establishing and maintaining consolidated and separate accounts for products and services supplied under the SAU, and associated reporting and external assurance arrangements.

NBN Co will be required to develop the cost allocation framework in a way that will safeguard competition and encourage efficient use of NBN services.

On 16 November 2023, we received a proposed CAM from NBN Co and a supporting submission and report from Farrier Swier Consulting which we have published on our website (with this consultation paper).

This consultation paper outlines key elements of the SAU's cost allocation framework and NBN Co's proposed CAM and identifies issues on which we are seeking comment.

## 1.1. Previous consultation

In previous ACCC consultation on the draft indicative CAM submitted by NBN Co as part of its SAU variation proposal in November 2022, a key theme in submissions was the extent to which the proposed arrangements would mitigate the risk of NBN Co inappropriately cross subsidising its non-core (i.e., competitive) services from its core services.<sup>5</sup>

Several submitters were concerned that NBN Co could potentially have an unfair advantage over other network providers operating in competitive markets (e.g., business service markets). That is, were NBN Co to shift the costs of providing its services in competitive markets to its core services thereby reducing its commercial risk of operating in these markets. Submitters considered that such an outcome would be detrimental to investment by other network providers in competitive markets, the degree of competition and consumer interests in the long term. Submitters emphasised the need for appropriate safeguards to address this potential risk. This would encompass a transparent CAM supported by ongoing assurance and monitoring arrangements to ensure costs are being allocated appropriately.<sup>6</sup>

Several concerns were raised by submitters regarding the draft indicative CAM NBN Co submitted with its November 2022 SAU variation proposal.<sup>7</sup> Submitters considered that the manual had insufficient detail such that the proposed approach to allocation of costs across core and non-core services lacked transparency. Submitters considered this could provide NBN Co with the opportunity to shift costs from non-core to core services, noting the risk of inappropriate allocation of capital and operational costs shared across these services. Submitters also questioned the proposed approach to allocation of operational costs between core and non-core services. The approach proposed was based on the respective proportions of revenue received from core and non-core services and did not incorporate allocators based on causal relationships between the supply of services and related costs incurred.

NBN Co's submission supporting its August 2023 SAU variation proposal stated that it would consider improvements to the draft indicative CAM submitted with its November 2022 SAU variation proposal, noting the issues highlighted by the ACCC in its April 2023 draft decision and the key themes and concerns previously raised by stakeholders.<sup>8</sup>

NBN Co's submission and report supporting its proposed CAM lodged on 16 November 2023 provides a response to the concerns raised and how the proposed CAM has addressed these issues.

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<sup>5</sup> ACCC, *Variation to the NBN Co Special Access Undertaking – Draft Decision*, April 2023, p 64.

<sup>6</sup> ACCC, *Variation to the NBN Co Special Access Undertaking – Draft Decision*, April 2023, p 64.

<sup>7</sup> ACCC, *Variation to the NBN Co Special Access Undertaking – Draft Decision*, April 2023, p 64.

<sup>8</sup> NBN Co, *Special Access Undertaking Variation 2023 – Supporting submission*, August 2023, pp 26-27.

## 1.2. Issues we are seeking comments on

In summary, we are seeking comments on the following issues regarding the proposed CAM lodged by NBN Co:

1. Is the proposed CAM consistent with the cost allocation principles in NBN Co's SAU?
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?
3. Does the proposed CAM provide sufficient detail to provide transparency over how costs are allocated between NBN Co's monopoly and competitive services?
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?
5. Does the proposed CAM mitigate the risk of NBN Co cross subsidising its competitive services from its monopoly services?
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?
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?

Stakeholders can assist in our review of NBN Co's CAM by providing their views on these or any other aspects of the proposed CAM lodged by NBN Co.

### Submissions

Pursuant to cl 6.1 of the SAU, the ACCC invites interested parties to make submissions that respond to NBN Co's proposed CAM and include clear reasons and information to support their views.

To enable an informed and consultative process, all submissions will be published on the ACCC website. Submitters are encouraged to provide a public submission that keeps confidentiality redactions to a minimum. The ACCC's approach in this consultation to assessing any confidentiality claims and disclosure of information is set out in Appendix A. The ACCC prefers to receive submissions in electronic form, in either PDF or Microsoft Word format which allows the submission text to be searched.

Please email submissions by 5pm, **12 January 2024** to [nbn@acc.gov.au](mailto:nbn@acc.gov.au).



## 2. Cost allocation framework

The SAU's cost allocation framework is set out in schedules 2G.6 and 2I.6 of the SAU and is summarised below.

Further information about the cost allocation framework in the SAU is also available in the ACCC's October 2023 final decision<sup>9</sup> on NBN Co's SAU variation proposal and NBN Co's SAU.

### 2.1. Cost allocation principles

Under the SAU, NBN Co is required to apply the following cost allocation principles to allocate costs between its core and non-core services:<sup>10</sup>

- costs that are directly attributable to a core regulated service will be allocated to that core regulated service
- costs that are directly attributable to a competitive service will be allocated to that competitive service
- shared costs (i.e., costs that are not directly attributable to a core regulated service or competitive service) will be allocated to reflect causal relationships between supplying services and incurring costs, unless establishing a causal relationship would require undue cost or effort, in which case an alternative suitable allocator will be used
- all costs will be allocated
- no cost should be allocated more than once to any service.

### 2.2. Cost allocation manual

The SAU required NBN Co to submit to the ACCC a proposed CAM by 16 November 2023. The CAM describes the methodology NBN Co will use to allocate costs between core and non-core services.

The ACCC has the power to approve the proposed CAM in either the form it is submitted or a form that incorporates reasonable changes required by the ACCC, within three months of lodgement (or a longer period if the ACCC extends its assessment).<sup>11 12</sup>

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<sup>9</sup> ACCC, final decision, NBN Co's SAU variation, October 2023, pp. 75-76.

<sup>10</sup> NBN Co, August 2023 SAU variation, Module 2, Schedule 2G.6.2.

<sup>11</sup> NBN Co, August 2023 SAU variation, Module 2, Schedule 2G.6.3 (b).

<sup>12</sup> Also, the ACCC may, at any time, issue a notice to NBN Co that: (i) directs NBN Co to submit a Proposed CAM to the ACCC; and (ii) describes the changes to the Cost Allocation Manual that the ACCC considers should be included in the Proposed CAM to be submitted by NBN Co. (cl 2G.6.3(f)). NBN Co must, within 3 months of receiving a notice under clause 2G.6.3(f), submit a Proposed CAM to the ACCC, in respect of which, clauses 2G.6.3(b) to 2G.6.3(e) will apply. (cl 2G.6.3(g)).

# 3. NBN Co's proposed cost allocation manual

NBN Co's submission supporting its proposed CAM lodged on 16 November 2023 outlines its rationale for the cost allocation methodology adopted in the CAM. NBN Co has also provided a report in support of its approach by Farrier Swier consultants.

The following is a summary of key elements of the proposed CAM.

Further information is available in the proposed CAM, and NBN Co's supporting submission and report.

## 3.1. Key elements

NBN Co operates as a wholesale only provider of core and competitive services.

NBN Co's proposed CAM lists NBN services and categorises them as either core regulated (i.e., monopoly) services or competitive services. NBN Co's three competitive services are described in the proposed CAM as follows:<sup>13</sup>

- Enterprise Ethernet, which connects from a business premises to NBN Co's fibre access node using a dedicated, high performance fibre optic cable.
- Business Satellite Service, which is an enterprise level satellite solution that combines access to satellite infrastructure with additional business services, such as a specialist Business Satellite Operations Centre to manage connections, service requests and services incidents.
- Satellite Mobility for Large Commercial Passenger Aircrafts, which is a wholesale satellite access service that can be used for Wi-Fi services onboard passenger aircraft.

All other NBN services, including all residential grade services, are categorised as core services.

Regarding NBN infrastructure used to supply both core and competitive services, the proposed CAM states that two of the NBN's access technologies, fibre to the premises (FTTP) and satellite, are used to supply both competitive and core services.<sup>14</sup>

That is, FTTP is used to supply Enterprise Ethernet and core services, and satellite access technology is used to supply Business Satellite, Satellite Mobility for Large Commercial Passenger Aircrafts, and core services.

Also, all NBN access technologies (i.e., FTTP, FTTN, FTTB, FTTC, HFC, fixed wireless and satellite), including those supplying both core and competitive services (i.e., FTTP and satellite), use the NBN's transit network to provide connectivity between an end-user premises and the NBN's points of interconnect.<sup>15</sup>

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<sup>13</sup> NBN Co, NBN Cost Allocation Manual, November 2023, p. 7.

<sup>14</sup> NBN Co, NBN Cost Allocation Manual, November 2023, p. 8.

<sup>15</sup> NBN Co, NBN Cost Allocation Manual, November 2023, p. 8.

The proposed CAM refers to the SAU's cost allocation principles, and provides definitions for directly attributable and shared costs, which underpin the CAM's cost allocation methodology.<sup>16</sup>

The approach to allocation of direct and shared capital and operating costs, including identification of the types of costs for which a causal relationship with an activity can be established and where such a relationship cannot be established, is also set out in the proposed CAM.

For shared costs, a number of steps are outlined to determine the appropriate method of allocation. Where the decision leads to the use of a default non-causal allocator or where no reasoning for a preferred allocator exists, the allocator used is the average of the percentage of active premises and the percentage of telecommunications revenue applicable to the cost category and service.

The proposed CAM includes an overview of NBN Co's financial management system used to capture, control, and report financial information at a general ledger account level using account numbers and cost centres. It states that each ledger can interface with the general ledger or chart of accounts, with Australian accounting standards used to determine whether expenditure is categorised as capital or operating. The methodology for how capital and operating expenditure are broken down from the general ledger into directly attributable and shared cost classifications, and allocated either to competitive or core service categories, is outlined.<sup>17</sup>

The proposed CAM also outlines proposed record maintenance for cost attributions and shared costs, and the approach taken to maintain these records, along with compliance processes and controls to monitor compliance with the CAM.

Overall accountability for the governance and implementation of the CAM is with the Chief Financial Officer of NBN Co.<sup>18</sup>

NBN Co's General Manager of Corporate Finance is responsible for:

- ensuring the CAM is updated, maintained, and applied, including the internal monitoring and reporting of its application
- working in close collaboration with other groups across NBN Co to communicate the requirements of the CAM and monitor NBN Co's compliance with the CAM.

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<sup>16</sup> NBN Co, NBN Cost Allocation Manual, November 2023, p. 10.

<sup>17</sup> NBN Co, NBN Cost Allocation Manual, November 2023, p. 11.

<sup>18</sup> NBN Co, NBN Cost Allocation Manual, November 2023, p. 6.

## 4. Next steps

The ACCC will consider submissions received in response to this consultation paper.

Subject to consultation outcomes and the ACCC's assessment of NBN Co's proposed CAM, the ACCC intends to issue its final decision on the proposed CAM by 16 February 2024 as required under NBN Co's SAU.

Should substantial issues arise, the ACCC may extend the timeframe for its assessment of NBN Co's proposed CAM and further consultation may be undertaken either directly with respondents, or publicly.

# Appendix A: ACCC approach to handling information

The ACCC/AER Information Policy,<sup>19</sup> sets out the general policy of the ACCC on the collection, use and disclosure of information.

The ACCC considers that a public and transparent consultation process is necessary to discharge the ACCC's procedural obligations and allow the ACCC to effectively assess the proposed CAM. Hence, the ACCC will only agree not to disclose information that is the subject of a confidentiality claim in limited circumstances.

In these circumstances, the ACCC has also formed the view that making information available to third parties only through limited individual non-disclosure agreements would not be an appropriate means to manage confidentiality claims in this consultation. Hence in this consultation it does not intend to apply the ACCC's confidentiality guideline for submitting confidential material to ACCC communications inquiries.<sup>20</sup>

## Disclosure of information

The ACCC will assess any confidentiality claims on a case-by-case basis and in doing so will consider whether it is required to publish information having regard to its statutory and common law duties and functions in each instance and in accordance with section 155AAA of the CCA.<sup>21</sup>

In assessing confidentiality claims, the ACCC will consider whether publication of the information is required to enable effective public consultation and allow it to perform its function of assessing the proposed CAM. The ACCC will assess whether this requirement outweighs any significant commercial harm a party submits may result from publication. The ACCC will afford procedural fairness in reaching these views.

## Process for claiming confidentiality

If a party wishes to make a claim of confidentiality over material provided during this consultation, it should follow the process below:

1. Please submit two versions of the submission:
  - a) a **public** submission that can be published on the ACCC's website, in which all confidential material has been removed and replaced with 'c-i-c'. Please ensure that redacted information is not searchable or otherwise able to be viewed.
  - b) a **confidential** version that clearly identifies the information over which confidentiality is claimed by bookending the confidential material with a marking of 'c-i-c'. Please also highlight for ease of reference the material over which confidentiality is claimed.
2. Information over which a party claims confidentiality must kept to a minimum so that consultation on all relevant material is not unnecessarily impeded.

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<sup>19</sup> The ACCC/AER Information Policy is available on the [ACCC website](#).

<sup>20</sup> The Confidentiality guideline is available on the [ACCC website](#).

<sup>21</sup> The ACCC notes in this regard paragraph 3.1 of the [ACCC-AER Information Policy](#).

3. Please provide a supporting submission that specifically substantiates the confidentiality claim for each item of information over which confidentiality is claimed. Confidentiality claims need to detail why the information is competitively sensitive or otherwise confidential, and why disclosure of the information would be likely to cause significant harm to the person to whom the information is confidential. 'Blanket' claims of confidentiality will not be accepted. The ACCC will notify parties of any additional information required to assess a confidentiality claim.
4. Where the ACCC proposes to publish information the subject of a confidentiality claim, it will provide a right to be heard and to amend or withdraw the information before proceeding to publication with redactions removed.
5. Where the ACCC proposes to not publish information the subject of a confidentiality claim and publishes a redacted submission, it may reconsider that claim at a future date if it becomes evident that publication of the redacted information is required to enable effective public consultation and to allow the ACCC to perform its function of assessing the proposed CAM. The ACCC will notify with the relevant party and engage with them in relation to how this information can be disclosed.