



Australian
Competition &
Consumer
Commission

Disclosure notice given to NBN Co
regarding National Broadband
Network Services in Operation
Record Keeping Rule information

Statement of reasons

March 2016

Australian Competition and Consumer Commission
23 Marcus Clarke Street, Canberra, Australian Capital Territory, 2601

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Glossary

Access Seeker	A Carrier, Carriage Service Provider, Content Service Provider that has entered into a wholesale broadband agreement with NBN Co to supply services over the NBN.
Access Seeker Group	Two or more Access Seekers which are acquiring Network Access Services and that are related to each other
Access Virtual Circuit (AVC)	An Ethernet-based, Layer 2 virtual connection on an NBN Co Network that carries traffic to a premise connected to that NBN Co Network.
CCA	<i>Competition and Consumer Act 2010</i>
Connectivity Virtual Circuit (CVC)	An Ethernet-based, Layer 2 virtual capacity for the transport of Access Seeker traffic from multiple AVCs back to the Point of Interconnect.
Data Transfer Rate	The average number of bits per second transferred from a data source to a data destination.
declared service	A service that the ACCC regulates under Part XIC of the CCA. Once declared, a service provider must supply the service to other parties in accordance with the standard access obligations and the terms and conditions set in the final access determination.
Line sharing service (LSS)	The line sharing service is the use of the non-voice band frequency spectrum of an unconditioned communications wire by a service provider for the purpose of providing a broadband service to an end-user.
Listed Point of Interconnection	A POI that is set out in the document titled “Listed Points of Interconnection – NBN Corporation”, published by the ACCC on 2 November 2012.
NBN SIO RKR	NBN Services in Operation Record Keeping Rules
Network Access Service	Each of the existing network access services and new network access services included in the Report NBN Co provides to the ACCC pursuant to the NBN SIO RKR in respect of the relevant calendar quarter. At the time of drafting technologies are fibre-to-the-premise, fibre-to-the-node, fibre-to-the-basement, fixed wireless and interim satellite. Where NBN Co rolls out an additional Network Access Service this will be included in the Report.
Points of Interconnection (POI)	A POI is the inter-network location where end-user traffic is handed over from the NBN onto an Access Seekers’ own network or onto a transmission provider’s network for transport to the retail service provider’s point of presence.
Service in operation (SIO)	A service supplied to a premise connected to the NBN network.

Non-listed POI	A POI that is not listed in the document titled “Listed Points of Interconnection – NBN Corporation”, published by the ACCC on 2 November 2012.
Traffic class 1 (TC-1)	The highest priority traffic class. It is delivered as a committed information rate (CIR) with defined latency, jitter and loss characteristics. It is suitable for applications that require highly deterministic traffic parameters such as voice.
Traffic class 2 (TC-2)	A traffic class that provides support for latency sensitive, interactive applications such as video conferencing, converged business collaboration, IPTV or gaming. It is delivered as a committed information rate (CIR) with defined latency, jitter and loss characteristics.
Traffic class 4 (TC-4)	A ‘best efforts’ traffic class designed for browser based applications such as the internet and web browsing. It is delivered in a range of peak speeds (PIR) that are asymmetrical.
Unconditioned local loop service (ULLS)	The unconditioned local loop service is the use of unconditioned communications wire by a service provider to provide a carriage service such as a telephone or broadband service to an end-user.

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Executive Summary

The ACCC has issued a direction to NBN Co to enable the ACCC to publish a market indicators report for National Broadband Network (NBN) access services – which are services that NBN Access Seekers acquire so they can supply wholesale or retail services over the NBN.

Pursuant to the direction, NBN Co will prepare and provide to the ACCC for publication certain data collected by NBN Co under the NBN Services in Operation Record Keeping Rules (NBN SIO RKR). This data will be used to publish the report.

The initial NBN market indicators report will be published each quarter with the initial report due to be published on 28 April 2016.

In broad terms, the NBN market indicators report will provide a count of the number of NBN access services for each access network technology, broad geographic region, contracted Data Transfer Rate (speed) tier, traffic class, and established NBN Access Seeker.

The report will also include data on the aggregated contracted throughput capacity on the NBN – that is, the aggregate contracted capacity across all NBN connectivity virtual circuits, and the breadth and depth of entry by NBN Access Seekers at NBN Points of Interconnection.

Reporting these data will provide a valuable perspective into the development of NBN markets as industry transitions away from a vertically integrated access network, and provide a basis for the emerging market outcomes to be observed and assessed.

This will promote competition in dependent services supplied over the NBN and improve the functioning of the regulatory regime which applies to NBN services, which will in turn benefit end-users through lower prices and/or a wider choice of services that better meet their requirements.

The data in the report will also be able to be compared at a high level against similar data that are already published regarding access services supplied over the Telstra copper customer access network. Telstra's own use of copper access lines is identified in those public reports, as well as the aggregate use of copper lines to provide unconditioned local loop services (ULLS) and line sharing services (LSS) respectively. At this stage, however, the ACCC has not decided to supplement these reports with a breakdown of aggregate ULLS and LSS data.

Background

Authority to issue a disclosure notice

The ACCC may issue a notice to a carrier or carriage service provider under section 151BUC of the *Competition and Consumer Act 2010* (CCA) requiring that carrier or carriage service provider to disclose periodic reports or extracts from reports prepared in accordance with a record-keeping rule (disclosure notice).

In order to issue a disclosure notice, the ACCC must be satisfied that the disclosure of each report in a series or particular extracts from each report would be likely to:¹

- promote competition in markets for listed carriage services or

¹ CCA s 151BUC(2)

- facilitate the operation of certain statutory provisions, including Part XIB and Part XIC of the CCA.

In deciding whether to issue a disclosure notice, the ACCC must have regard to the legitimate commercial interests of the carrier or carriage service provider that provided the report and any other matter it considers relevant.²

Before issuing a disclosure notice, the ACCC must also invite the carrier or carriage service provider concerned to make a submission on a draft of the disclosure notice, and consider any submission made by it within the time limit.³

The disclosure notice may require the report or extract to be published under paragraph 151BUC(2)(c) of the CCA, or where more limited disclosure is appropriate, require that the disclosure be limited to specified persons or classes under paragraph 151BUC(2)(d) of the CCA.

Consultation process

The ACCC's proposal to publish a market indicators report arose from a request by the Competitive Carriers Coalition for 'before and after' market share data for fixed line services to be published as regions are cutover from Telstra access network to the NBN.⁴

In July 2015 the ACCC published a discussion paper and called for submissions by 21 August 2015. Six submissions were received. At NBN Co's request, the ACCC directly contacted smaller service providers who could potentially be included within the report and invited them to provide comment.

Excepting NBN Co, all submissions supported the ACCC's proposal in some form. **The Australian Communications Consumer Action Network** supported publication as a means to promote competition and market transparency which would benefit end-users.

The Department of Communications supported publication as a means to facilitate better decision making by market participants and policy makers. The Department considered the report was unlikely to impose additional regulatory burden on industry.

Macquarie Telecom supported publication on the basis it would promote competition. Macquarie noted the importance of tracking the development of competition in light of changing market dynamics. Whilst Macquarie proposed broadening the scope of the report to encompass reporting on the backhaul market, this is beyond the scope of NBN Co's reporting to the ACCC.

Optus supported publication to promote competition and facilitate the ACCC's role as regulator. Optus proposed expanding the scope of the report by publishing market share information on all Access Seekers and by individual Access Seekers rather than by Access Seeker Group. The ACCC has decided not to adopt these recommendations.

² Ibid s 151BUC(5)

³ Ibid s 151BUC(6)

⁴ ACCC, *Report to the Department of Communications: ACCC consultation on proposed information disclosure carrier licence condition (May 2015)*, at <https://www.accc.gov.au/regulated-infrastructure/communications/national-broadband-network-nbn/information-disclosure-by-nbn-co/accc-report>

Optus, along with Telstra, noted there were practical impediments to the ACCC's proposal to revisit the disclosure direction provided to Telstra that underpins the public reporting of data under the Telstra Customer Access Network Record Keeping and Reporting Rules (Telstra CAN RKR). The ACCC agrees with this view and has determined not to proceed to implement that initiative at this time.

NBN Co did not support publication of the report whilst **Telstra's** support for the report rested on a number of caveats. Both viewed publication as likely to harm competition, with NBN Co arguing that publication of a count of NBN access services by Access Seeker (market share information) may harm the ability of NBN Access Seekers to seek and secure market share. To mitigate against such an outcome, the report will not publish these data for an Access Seeker unless it is already established in NBN access markets – that is, it is acquiring five percent or more of the total number of NBN access services in the relevant class. Telstra contended that publishing market share information would harm competition by reducing a firm's competitive intensity. For reasons outlined below, the ACCC does not consider this a likely outcome.

Both NBN Co and Telstra raised concerns that data in the report could be misinterpreted, in NBN Co's case due to transitional / temporary measures which distort Access Seeker demand, and with Telstra raising the possibility that data could be misinterpreted as providing a view of the NBN retail market. The report will carry clear statements to militate against it being misinterpreted in this way.

NBN Co and Telstra also questioned the basis for publishing the report with NBN Co arguing the report is seeking to anticipate issues, the nature of which have not yet become apparent. In a similar vein Telstra argued there was insufficient evidence to warrant ex ante intervention in the market. The ACCC is satisfied that the report will address current issues regarding access to NBN market information and that it is an appropriate time to implement it.

After considering the views expressed in response to the discussion paper, a draft disclosure notice was issued to NBN Co on 30 November 2015 pursuant to section 151BUC(6) of the CCA. NBN Co responded to the draft disclosure notice on 22 January 2016, making a number of recommendations to simplify the drafting of the disclosure direction and to lessen the cost of generating the necessary data for inclusion in the report, each of which has been adopted in the final version of the disclosure notice.

Outline of the report

The data to be included in the NBN market indicators report are extracted from the reports that NBN Co provides to the ACCC under the NBN Services in Operation Record Keeping and Reporting Rule (NBN SIO RKR).

These rules impose a binding legal obligation on NBN Co to supply specified information regarding NBN access services each quarter.

In broad terms, the NBN market indicators report will provide a count of NBN access services by:

- access network technology
- broad geographic regions
- contracted Data Transfer Rates
- traffic class
- established NBN Access Seeker.

The report will also include data on the aggregated contracted throughput capacity on the NBN – that is, the aggregate contracted capacity across all NBN connectivity virtual circuits, and the breadth and depth of entry by NBN Access Seekers at NBN Points of Interconnection.

A template of the report is provided at Attachment A, and further details about the contents of each of the tables are provided later in these reasons.

It is important to note that the NBN market indicators report will provide a view of the wholesale market for NBN access services, and cannot be relied upon in deriving retail market shares for NBN services.

This is because an NBN Access Seeker may use a NBN access service to provide a service directly to an end-user or may wholesale a service to a retail service provider (RSP) who then delivers a service to an end-user. Alternatively, it may choose to acquire resale services from another NBN Access Seeker in some circumstances when supplying retail services over the NBN.

Pre-conditions to issuing the disclosure direction

The ACCC is able to issue a disclosure direction where it is satisfied that disclosure of the resulting report would be likely to promote competition in the market for listed carriage services or facilitate the operation of one of the statutory regimes identified in sub-section 151BUC(2) of the CCA.

In this regard, the ACCC is of the view that disclosure of the report would be likely to promote competition in markets for listed carriage services supplied over the NBN, as well as facilitate the operation of Part XIB and Part XIC of the CCA as those Parts apply to NBN access services.

Promotion of competition

The ACCC considers that implementing the report will promote competition by increasing the availability of data about the size of emerging NBN access markets, and their structure as shown by market shares of established NBN Access Seekers. This will reduce the costs of NBN Access Seekers and those considering entry in acquiring reliable market information, and allow them to make better informed decisions.

The report will also reduce information asymmetries that would otherwise exist between NBN Access Seekers, those considering entry as an NBN Access Seeker, and NBN retail service providers and application service providers, amongst others, in respect of NBN access markets.

The report will also assist to reduce information asymmetry between Telstra and other parties during the transition to the NBN. During this period, Telstra would otherwise be likely to have a better view of NBN access markets due to the additional reports it will receive from NBN Co, such as service cutover notifications, as well as from its incumbent position as the largest provider of fixed voice and data services.

Reducing asymmetry of information allows NBN Access Seekers to compete efficiently on their respective merits as service providers on the NBN, rather than on the basis of some having privileged access to richer or more timely market information.

That said, some submissions expressed the view that reporting on NBN access markets could in some respects either not materially promote competition or could impede competition from developing.

In particular, Telstra indicated the provision of data by Access Seeker could reduce incentives for an Access Seeker to compete, on the basis that others could ascertain the number and type of NBN access services it was acquiring.

The ACCC does not, however, consider this is a likely outcome from the reporting given that NBN Access Seekers will have strong underlying incentives to compete at this transition point to a more competitive industry structure. Further, the data to be included in the reports have been aggregated and that, together with the public nature of the reporting, will provide a high degree of assurance that the reports would not lessen competitive tension in the market.

That said, the level of detail regarding NBN access services supplied by established NBN Access Seeker that will be presented in the NBN market indicators report is less than what was raised for consideration in the discussion paper. This would likely go some way towards addressing Telstra's concern.

NBN Co expressed the view that there could be potential harm to smaller NBN Access Seekers while they are becoming established. The potential for any such risk has been addressed by the report not separately identifying an NBN Access Seeker until such time as they are acquiring at least five per cent of the service that is reported upon.

NBN Co also noted that end-users would be unlikely to make purchase decisions based upon the market information included in the report and hence the reporting would be unlikely to promote competition by influencing demand side choice. While it is unlikely that a large number of end-users may not read these reports or rely heavily on them in selecting their NBN services, the ACCC's views are not predicated upon the reports having such a direct influence on end-user preferences in the market.

Facilitate the operation of Parts XIB and XIC of the CCA

The ACCC is satisfied that publishing the report would be likely to facilitate the operation of each of Parts XIB and XIC of the *Competition and Consumer Act 2010* (CCA).

This is because the market information to be included in the report will assist NBN Access Seekers to progress access negotiations, and also assist in resolving matters that arise for regulatory consideration under those Parts.

By way of overview, Part XIB prohibits carriers or carriage service providers from engaging in anti-competitive conduct and provides the ACCC with authority to prevent such practice by, for example, issuing a competition notice. Persons that consider that anti-competitive conduct is occurring can bring a complaint to the ACCC for investigation under this Part.

Part XIC details the telecommunications access regime which applies to declared services pursuant to which an access provider of an active declared service is required to supply the service on terms and conditions agreed with the Access Seeker. Where mutually agreeable terms of supply cannot be reached, then there are specified regulatory processes to determine what the terms of access should be. Relevantly, NBN Co is an access provider of declared services for the purpose of NBN access services.

The ACCC considers that the report will facilitate the operation of Part XIB of the CCA by making available market information that will assist parties in deciding whether to raise a complaint with the ACCC. In this regard, while not conclusive as to whether anti-competitive conduct is occurring, the report will provide interested parties with a better opportunity to assess whether the market conduct that they are concerned about is potentially having a substantial effect on emerging market outcomes.

The ACCC considers that the report will also facilitate commercial negotiation between NBN Co and Access Seekers, which is the principal means envisaged by Part XIC to establish the terms of supply of NBN access services.

The report will, for example, provide visibility on the extent to which a range of NBN Access Seekers have secured access to different types of NBN access services. This will likely provide NBN Access Seekers with greater confidence to agree to NBN access arrangements, or alternatively pursue negotiations with NBN Co for alternative access arrangements where they consider that efficient market outcomes are not emerging.

In addition, the availability of this report would also assist parties considering referring issues to the ACCC, since the report would inform at least in part the assessment of the level of competition that is developing in respect of NBN access services. While not determinative of the ACCC's attitude towards a specific access issue, this should nonetheless assist in more timely outcomes for access negotiations, and lessen the likelihood of a breakdown in negotiations.

Publication of the report would also facilitate the operation of Part XIC by making important market information that the ACCC would likely rely upon in making and explaining its decisions under this Part available to interested parties. This will in turn lead to more informed submissions to ACCC regulatory processes and enhance confidence about the ACCC's regulatory role in respect of the NBN.

Legitimate commercial interests

In deciding to issue the disclosure notice to NBN Co and implement the NBN market indicators report, the ACCC had regard to the legitimate commercial interests of NBN Co and NBN Access Seekers, and formed the view that doing so would not harm those interests.⁵

Telstra noted that publication of NBN data by NBN Access Seeker would adversely harm Telstra's commercial interests. In particular, Telstra considered that the data to be included in the report would be mistaken as pertaining to retail NBN services rather than to NBN access services. In that case, publishing the NBN market indicators report could cause confusion and required Telstra to reconcile the retail data it was publishing itself and the access data that was included in the report.

The ACCC does not accept that is a likely outcome. That said, the NBN market indicator reports will carry a clear statement to alert the reader that the data relates to NBN access services and not to retail services supplied over the NBN.

No other service provider raised a concern over the inclusion of data by NBN Access Seeker. The ACCC notes that these data are limited to a count of services being acquired, are aggregated to quite a high geographic level, and are of a contemporary or historical nature, as compared to detailed business plans or operating forecasts.

Further, many carriers generally make available to the public counts regarding the number of retail services they supply. In addition, visibility over the wholesale access services that Telstra self-supplies on the copper access network has been available to the public for an extended period of time without apparent commercial harm to Telstra.

The ACCC has also had regard to the legitimate commercial interests of NBN Co, including by adopting the various recommendations it has made as to how the data can be extracted and presented in an efficient and least cost way.

⁵ Ibid s 151BUC(5)

Explanation of Included Tables

The ACCC sought stakeholder views on the data tables to be included in the report including by providing example templates in its discussion paper and through targeted questions. The ACCC's reasoning for proceeding to include the relevant tables identified in the disclosure notice is discussed below.

NBN services in operation data

Table 1 provides as at the end of the calendar quarter for each Network Access Service (access technology) by AVC traffic class on a national basis

- a) the count of the total number of AVCs and
- b) the sub-count of AVCs for each Data Transfer Rate 'tier'.

The table reports on commercially available NBN access technologies. As, and when, NBN Co rolls out a new technology this will be added to the table.

In developing this data table the ACCC decided not to require data to be presented at the State group or POI level. This is because a geographic view on market for NBN access services is provided in other Tables in a more straightforward way than disaggregating these particular data.

CVC data

Table 2 provides as at the end of the calendar quarter the sum of contracted CVC capacity for each CVC traffic class by State grouping.

The ACCC sought views on the option of publishing contracted CVC, utilised CVC or both metrics. Optus and ACCAN supported publication of utilised CVC with Telstra supporting publication of contracted CVC. The ACCC decided to adopt contracted CVC as the relevant benchmark as this would provide a more reliable metric of total NBN Access Seeker provisioning across the NBN in order to meet end-user demand. It will also be simpler for NBN Co to provide data on this basis.

POI data

Table 3 provides as at the end of the calendar quarter a count of NBN POIs that are

- a) listed POIs and
- b) non-listed POIs, e.g. Temporary POIs

by each number of Access Seeker Groups that have contracted CVC capacity at the POI.

For example, the Table will state, for each type of POI, the number of POIs at which no Access Seekers have yet contracted to acquire CVC capacity, the number with one Access Seeker Group that has contracted this capacity, and so on, until the maximum number of Access Seeker Groups that have contracted to acquire CVC capacity at a single POI is reached.

Contracting CVC capacity at the POI is an essential pre-condition to acquiring NBN access services and supplying services from that POI as an NBN Access Seeker. Hence this Table will give a view of the breadth and depth of the NBN Access Seeker footprint across the NBN.

This is essentially the same approach that was adopted in providing visibility over the competitive footprint that emerged over Telstra's copper access network.

The ACCC received differing views as to whether data should be published at the Access Seeker Group level or for individual Access Seekers. Telstra supported the former and Optus the latter.

The ACCC determined that reporting on the basis of corporate group more accurately reflects the market for NBN access services as where multiple firms in the one corporate group have become NBN Access Seekers, these individual firms would be more likely to operate in a coordinated manner. Consequently, providing data based upon Access Seeker Groups rather than individual Access Seekers will avoid double counting of independent NBN Access Seekers.

Optus proposed expanding the scope of POI reporting so that the Report published the number of Access Seekers at each of the individual POIs. While this would further enhance transparency, the ACCC did not consider the additional detail was necessary to include in a regular market indicators report.

Macquarie Telecom suggested supplementing the report to include information about the number of backhaul providers that were present at the POI. However, these data are not currently collected under a record keeping rule, and implementing this suggestion would potentially require data to be provided from each backhaul carrier. Consequently that ACCC has not adopted this recommendation at this time.

Access Seeker services in operation data

Tables 4, 5, 6 and 7 provide a count of TC4 AVC services acquired by established NBN Access Seekers.

TC4 AVC services are best effort access services that are used to supply mass markets. These services are featured in these tables as they will provide an overall view of the emerging market structure for NBN access services. In this regard, TC1 AVC services (which provide additional support for voice services) are bundled with a TC4 AVC. The level of demand for other TC AVC services – that support symmetric business applications – have not at this time attracted sufficient demand to warrant their inclusion in this Table.

Each established NBN Access Seeker Group – which for this purpose are those NBN Access Seeker Groups with greater than five percent of the TC4 services in operation relevant to the Network Access Service / Table, will be included in the report as a discrete line item. The relevant services of all other NBN Access Seekers will be aggregated into an ‘other’ line item. This is the same approach that the ACCC has taken in other public market indicator reporting that it has undertaken.

This approach is largely to simplify reporting and because data by small niche NBN Access Seekers is unlikely to contribute as much to assessing the emerging market structure.

It will also provide assurance that the data in the report could not be misused against an NBN Access Seeker while it is becoming established in the market, such as could be the case were the report to become a key means by which market participants could discover new entry, and should more established NBN Access Seekers have a strong incentive to respond to that entry in a targeted manner.

Table 4 provides as at the end of the calendar quarter the count of TC-4 AVCs by NBN Access Seeker Group for each relevant Network Access Service. As and when new Network Access Services are rolled-out by NBN Co these will be added to the Table.

Providing this perspective will assist in an assessment as to whether different market outcomes are emerging based upon the underlying Network Access Service. This will be particularly useful given the risk that market outcomes could be skewed in relation to one or another Network Access Service.

While NBN access services will in many respects be presented to Access Seekers in like terms across Network Access Services, there will be differences in the access services (e.g., speed tier specifications and variability in service performance) which could have a material bearing on the potential for Access Seekers to enter and win customers. This reflects the view that an Access Seeker's role will tend to become more difficult the more heterogenous the access product is.

Another reason for reporting in this way is that there is potential for the role that Telstra will play in providing network and other services to NBN Co in transition to the NBN to influence market outcomes, and the nature and extent of this role will likely differ by Network Access Service. That is, Telstra's role includes providing planning and design services, and supplying network elements, to NBN Co, with the nature or extent of this role differing in some respects by technology.

In addition consumer awareness of an Access Seeker in the legacy market may favourably dispose them to that Access Seeker when choosing a provider in the NBN market. By way of example, NBN Co's use of the Telstra and Optus hybrid fibre-coaxial (HFC) networks may provide these HFC incumbents with a head start in the provision of NBN HFC Network Access Services as a result of their pre-existing HFC customer base.

Reporting on market outcomes for satellite services may provide a useful point of comparison to the reporting of market outcomes for other services where Telstra's has a lesser role as a service provider to NBN Co and where entrenched incumbent positions have not been observed to the same extent in legacy markets.

Table 5 provides as at the end of the calendar quarter the count of TC-4 AVCs on a national basis by NBN Access Seeker Group and by contracted download Data Transfer Rate (speed) tier across all Network Access Services.

As the speed tiers are not specified in identical terms across all Network Access Services, some services will need to be allocated to equivalent speed tiers. By way of example, NBN fibre to the basement services are supplied based on download rates of 25Mbps, 25Mbps – 50 Mbps or 25Mbps – 100Mbps service. These will be included in the table as a 25Mbps, 50Mbps and 100Mbps respectively on the basis that an Access Seeker that selected a tier with a higher maximum throughput rate was doing so to meet end-user demand for a 'faster' service.

Providing data on this basis will allow an assessment to be made of the extent to which different market outcomes are emerging for entry level, intermediate and higher speed services over the NBN. This viewpoint will be particularly relevant as a price and cost premium applies as speed tiers increase, and hence the level of competition for NBN access services would potentially differ by speed tier.

Table 6 provides as at the end of the calendar quarter the count of TC-4 AVCs by NBN Access Seeker Group by State grouping arrangement. States/territories are grouped as New South Wales/Australian Capital Territory, Victoria/Tasmania, Queensland, South Australia/Northern Territory and West Australia. This grouping is to align with the geographic reach of NBN access services supplied from the non-listed (interim) POIs, which will simplify the necessary data collection and reporting.

This Table will allow an assessment as to whether conditions local to the relevant State are affecting emerging market outcomes.

Table 7 provides as at the end of the calendar quarter the count of TC-4 AVCs on a national basis by Access Seeker Group by metropolitan/regional designation.

This Table will allow an assessment as to whether different outcomes are being observed in regional and metropolitan areas. This is a particularly relevant perspective

given that the competitive footprint that developed in respect of Telstra's copper access network was in the main limited to metropolitan areas, with the NBN seen as an opportunity to introduce competition in the supply of fixed line access services into regional areas in particular.

For the purposes of this Table, an AVC that is supplied on a Satellite Access Service will be designated as 'regional'. For other Network Access Services, an AVC that is supplied on a Network Access Service that is connected to a Listed POI is to be designated as 'metropolitan', 'outer metropolitan' or 'regional' as per the table provided in "Listed Points of Interconnection – NBN Corporation", published by the ACCC on 2 November 2012.

Otherwise, the AVC is designated simply as 'non-Listed POI' – this is because a NBN access service supplied from a non-listed POI could be supplied to a metropolitan, outer metropolitan or regional area, and hence they cannot be easily attributed to one or other area. That said, fewer services will attract this designation over time as services migrate to the listed POIs.

Other matters

Possible revision to Telstra Customer Access Network reports

In the discussion paper, the ACCC raised the potential to revisit the disclosure direction provided to Telstra that underpins the public reporting of data under the Telstra CAN RKR. This would have provided for a breakdown of ULLS and LSS data already included in those reports by relevant Access Seeker.

However Telstra has raised a strong objection to this proceeding, and other parties have raised some practical issues to be considered in further developing this proposal. Consequently, the ACCC has not decided to proceed to implement that initiative at this time.