
ACCC Superfast Broadband Access Service & Local Bitstream Access Service Declaration Inquiry

Vocus Group Limited (Vocus) is Australia's specialist fibre and network solutions provider. Vocus owns a portfolio of well-recognised brands catering to enterprise, government, wholesale, small business and residential customers across Australia and New Zealand.

On 9 July 2020, the ACCC released a [discussion paper](#) to begin its public inquiry into the following declared services:

- the superfast broadband access service (SBAS)
- the local bitstream access service (LBAS).

These services are wholesale fixed line broadband services capable of download data rates of normally 25 Mbps or more, able to be used by access seekers to supply downstream superfast broadband retail services to end-users. The services are supplied on non-NBN networks and provide similar services to the NBN.

As an active participant in telecommunications markets in Australia, Vocus welcomes the opportunity to respond to the ACCC's discussion paper.

Introduction

The ACCC's inquiry will examine whether the current LBAS and SBAS declarations should be extended, varied, revoked, allowed to expire or whether a new declaration should be made.

LBAS Declaration

The ACCC was required to declare an LBAS under legislative amendments associated with the introduction of the NBN and the level playing field rules. The ACCC declared the LBAS in February 2012.

The LBAS declaration requires operators of fixed line superfast broadband networks used, or proposed to be used, to supply residential or small business customers to provide access to a Layer 2 bitstream service with a download data rate of normally 25 Mbps or more upon request.

The LBAS currently applies to services supplied on networks that supply superfast carriage services that were built, altered or extended after 1 January 2011 which currently include networks operated by Opticomm and Uniti. The LBAS declaration does not apply to the NBN, HFC networks that have or will be transferred to the NBN or to wireless, mobile or satellite networks.

SBAS Declaration

In 2016, the ACCC declared the SBAS. Broadly, the SBAS declaration applies to fixed line networks capable of a downstream data rate that is normally 25 Mbps or more. The SBAS declaration currently applies to services supplied on the following networks:

- Telstra's FTTP networks in South Brisbane and Velocity Estates
- TPG's VDSL network in the ACT and HFC networks in regional Victoria
- TPG's FTTB networks in capital cities
- Other networks that supply superfast carriage services, including superfast broadband networks that existed before 1 January 2011 (which are not subject to the level playing field rules).

The SBAS declaration does not apply to services:

- supplied on the NBN, HFC networks that will be transferred to NBN Co, and networks already subject to the LBAS or Domestic Transmission Capacity (DTCS) declarations. These services are subject to other access regulation under Part XIC of the CCA
- that exclusively supply business, charity and public body end-users in central business district (CBD) areas of capital cities on the basis that competition in the supply of these services is considered to be effective.

The ACCC declared the SBAS so that wholesale access regulation is in place for fixed line superfast broadband networks not covered by the LBAS declaration.

Issues for consideration

Promoting competition

Vocus supports the ongoing declaration of a superfast broadband network access service.

We submit ongoing declaration of these services would promote the long-term interests of end users (LTIE) of telecommunications services and imposes limited regulatory impost on access providers.

Vocus submits that the ACCC's analysis and findings in its SBAS declaration in July 2016 remain applicable, notably:

- superfast broadband services, irrespective of their geographic footprint and subscriber bases, display characteristics of natural monopolies, due to both technical and economic barriers to entry
- in most areas where these services are supplied, there is limited, if any infrastructure competition.

In this context, continued declaration of these services would promote competition in retail markets for the supply of superfast broadband services, and to a lesser extent, competition in wholesale markets for the supply of wholesale superfast broadband services.

Vocus submits wholesale access to fixed line networks will continue to be necessary for competition to develop at the retail level. For example, continued declaration of these services enables Vocus to provide superfast broadband services to residential customers in new greenfield developments that have non-NBN broadband connections, using, for example Opticomm's LBAS.

The main practical benefit of these declarations appears to be providing a regulatory "fall back" for access seekers in the event of poor behaviour from access providers, thereby enabling RSPs to have access to wholesale superfast broadband services on reasonable terms, as well as facilitating competition.

Service description & duration

Vocus submits that it would be a simpler approach for the ACCC to combine the LBAS and SBAS under a single declaration instrument given that these services generally have the same service characteristics.

A service description aligned with the existing SBAS service description would be appropriate. The market should be defined to cover the services nationally, due to cost structures and national pricing policies of retail and wholesale providers.

Vocus submits that a five-year term is appropriate as it provides regulatory certainty which assists with business planning decisions.

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Vocus