

14 August 2020

Mr Steve Williams  
Assistant Director  
Transmission and Facilities Access  
Infrastructure Regulation Division  
Australian Competition & Consumer Commission

By email

Dear Mr Williams

## **Submission in response to NBN SIO RKR consultation paper**

Thank you for the opportunity to provide comments on the proposal to extend the NBN SIO RKR. Optus agrees that the NBN SIO RKR is an important source of market data for both regulatory and competition purposes. We support the extension of the RKR for an indefinite period. In addition, we submit the RKR should be extended to include NBN business products, such as Enterprise Ethernet. These issues are discussed in more detail below.

### *Extension of the RKR*

Optus supports the extension of the NBN SIO RKR beyond September 2020. Optus submits the RKR should be extended for an indefinite time, until the time when the ACCC rescinds the RKR. Such an approach is consistent with the other RKR's managed by the ACCC.

### *NBN business products should be included in the RKR*

The NBN SIO RKR currently includes residential products (AVC and TC-4 CVC) and basic business CVC (TC-2). It does not include NBN Co's full suite of business products including Enterprise Ethernet. However, NBN Co's business products are increasingly contributing a material component to NBN Co's revenue; and the use of NBN products in the enterprise market is growing and looks like becoming the dominant wholesale network in the enterprise market.

Optus notes that NBN Co's participation in the enterprise market may give rise to greater competition issues than its participation in the residential market, due to NBN Co competing directly against other wholesale enterprise networks. The ACCC should have access to sufficient data so that it can continually assess the level of competition in the market.

Further, including NBN Enterprise Ethernet services in the NBN SIO RKR will provide necessary transparency on the state of the market. We have seen in recent times some enterprise RSPs making claims about market share of Enterprise Ethernet services. Such claims cannot be verified as there is no publicly available information on the number of these services. Absent an authorised public source of these services, enterprise RSPs may continue to make un-verifiable market share claims, which may mislead the market as to the relevant size of enterprise RSPs.

Optus submits that the NBN CO SIO RKR should be amended to include reporting on the market share of NBN Enterprise Ethernet Services by RSP and for proper transparency and comparison this data should include and be split by the Enterprise Ethernet Class of Service

and the Enterprise Ethernet Access Speed. As per the publicly available NBN Co Wholesale Broadband Agreement, this includes:

- Enterprise Ethernet in three different contention Classes of Service: LOW COS, MEDIUM COS and HIGH COS.
- Enterprise Ethernet in incremental speeds from 10 Mbps through to 1000 Mbps.

We're happy to provide further context or detail if you require.

Yours Sincerely

Luke van Hooft  
Director, Economic Regulation