

31 July 2017

Mr Grahame O'Leary  
Director, Convergence and Mobility Branch  
Australian Competition & Consumer Commission  
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Sydney NSW 2000

Via email: [grahame.oleary@accc.gov.au](mailto:grahame.oleary@accc.gov.au)  
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Dear Grahame,

## **NBN SERVICES IN OPERATION RECORD KEEPING AND REPORTING RULES**

Optus submits that the current NBN SIO RKR and Disclosure Direction should be extended beyond the expiry date of 30 September 2017 for a period of no less than five years. The purpose of the NBN SIO RKR serves two important functions:

- (a) Requires NBN Co to submit information on the supply of NBN Access Services for each access technology type and traffic class. It also collects information that allows market shares to be derived on an ongoing quarterly basis; and
- (b) Disclosure by the ACCC in the form of a summary of the information provided by NBN Co.

Continued access to this information provides transparency on the take-up of NBN access services that is currently not disclosed elsewhere. In particular, it provides information on the number of NBN Access Services acquired by RSPs for each access technology type and traffic class, which allows for the monitoring of the development of the market for NBN services. Optus therefore considers that absent availability of this information elsewhere, the NBN SIO RKR and Disclosure Direction should be extended.

Attachment 1 sets out Optus' views on the continued operation of the NBN Co RKR and Disclosure Direction. Optus also supports the submission by Communications Alliance.

Yours sincerely,

Luke Van Hooft  
Director, Economic Regulation

## ATTACHMENT 1

### **The current operation of the NBN SIO RKR should be extended**

The NBN SIO RKR has improved the transparency associated with the development of the wholesale NBN access market. While any RKR imposes compliance costs on industry, the NBN SIO RKR is a necessary measure to ensure that the ACCC can be informed on developments in the market for NBN services, assisting the ACCC to perform its regulatory functions.

Ensuring a high level of transparency over the operation of the NBN is important given the monopoly position of NBN Co in the wholesale fixed telecommunications market. This is further complicated with the role some RSPs have in the design and deployment of NBN infrastructure. Such information disclosure helps to ensure access seekers can continue to operate in a transparent, competitive environment, which aligns strongly with the LTIE.

As such, there is little doubt that the benefits to industry and end-users of the NBN SIO RKR outweigh the compliance costs. Optus strongly supports the extension of the current NBN SIO RKR.

### **Relevance of the information disclosed has not changed**

Optus strongly supports the continuation of the NBN SIO RKR in the current form. The RKR remains the only published report which monitors key elements of the current NBN market, including market share particularly by access technology type, and the overall usage of NBN price components.

Optus relies upon the ACCC's published NBN SIO RKR reports on a quarterly basis, and uses this information for a number of reasons:

- (a) To monitor Optus' market share relative to other RSPs to ensure Optus' activities remain efficient and competitive.
- (b) Monitor the development of market shares across state groups, which helps Optus target its limited resources to parts of the country where we may be lagging in market share to ensure all end-users have access to competitive offers.
- (c) Monitor the development of market share across technology type, which helps Optus to, for example, allocate more resources to areas where the access technology has a high rate of uptake. This will help Optus to be more efficient in enabling a better retail end-user experience as the industry switches over to the NBN.
- (d) Information such as, the number of AVC services in operation, and the amount of CVC capacity acquired, is used by Optus to estimate future capital and operational expenditures.

Absent this report, there is no other high-level information source available for this information. The weekly rollout information summary published by NBN Co does not provide information on an equivalent basis. Importantly, Optus regards the supply of information under the RKR legislative framework provides confidence that the information reported is accurate and can be relied upon.

### **Proposed variation to the RKR**

The ACCC has sought views as to whether additional information should be included in the NBN SIO RKR. Optus supports the submission provided by Communications Alliance. In particular:

- (a) The “NBN Services in Operation RKR” provides information about the nature of the NBN rollout and the services that are being established with it. It currently is not a report on the network performance or customer experience. Proposals to make it do so are likely to lead to inaccurate conclusions about the performance of NBN services.
- (b) The number of AVCs per CVC is not a useful indicator of network performance, because it is not related in any meaningful way to the download speed being experienced by the end users in the busy hours. There are a number of other network strategies that enable RSPs to manage and control quality of service over NBN connections which would not be captured by this metric.
- (c) The 95% utilisation threshold that the ACCC has suggested is arbitrary (as would be any threshold) and not directly related to download speed. More specifically, the suggested measure cannot be used to compare the download speeds experienced by the end users in the busy hours.
- (d) The ACCC should continue to rely on its broadband advertising guidelines and its Broadband Monitoring Programme to ensure timely disclosure of actual NBN service levels.

Optus does support the proposal to report by state rather than by state group.

### **Disclosure Direction should be reissued as part of the extended RKR**

Optus supports the requirement to issue a new Disclosure Direction as part of the extended NBN SIO RKR.

At a minimum, this should include the same terms as the previous Disclosure Direction requiring NBN Co to provide information relating to the development of the wholesale NBN market. In addition, a minor amendment could be introduced to indicate how the observed take-up of AVC services compares against the corresponding metric of serviceable premises at the same point in time.