

Public version

26 November 2021

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Dear Messrs Williams and Hinitt

Proposed changes to the NBN Services in Operation Record Keeping Rules – Consultation Paper

TPG Telecom Limited (**TPG**) appreciates the opportunity to provide comments to the Australian Competition and Consumer Commission (**ACCC**) regarding the consultation paper titled *Proposed changes to the NBN Services in Operation Record Keeping Rules (20 October 2021) (Consultation Paper)*.

Requirement on NBN Co to notify the ACCC when it is preparing to introduce a new product or service

TPG supports the introduction of a requirement on NBN Co to notify the ACCC when it is preparing to introduce a new product or service, to the extent this assists the ACCC to update the NBN SIO RKR expeditiously.

TPG notes it is unclear from the Consultation Paper how advanced in development any new product or service should be such that it would trigger notification to the ACCC. For example, TPG understands that NBN Co issues Product Construct Papers to participants in the Product Development Forum to seek industry feedback on NBN Co's initial thinking and ideas about new products or services. It would be helpful for TPG to understand whether such Product Construct Papers would meet the ACCC threshold for notification, or if the ACCC would limit notification to new products or services that are fully developed and are soon to be launched (or if the ACCC has in mind an alternative notification threshold).

TPG also supports the ACCC reducing the notification period in rule 14 for NBN to report new products or services to the ACCC to 28 calendar days (from 90 calendar days).

Introduction of CVC overage reporting

TPG supports the ACCC obtaining data regarding CVC overage from NBN Co and agrees with the ACCC's observations that CVC overage is an important element of the costs of RSPs in obtaining TC4 services. However, TPG opposes the ACCC publishing any CVC overage information at an access seeker level in the NBN Wholesale Market Indicators Report, or elsewhere publicly.

TPG considers that CVC overage information is highly commercially sensitive information that is not ordinarily

publicly disclosed. This is because CVC overage information would enable a third party, for example, to determine an access seekers' underlying costs and cost structures, along with CVC management strategies which RSPs invest a significant amount of time and resources to manage. CVC and overage information is also influenced by a wide variety of factors, such as customer profiles, customer base mix and significant events (e.g. COVID-19 lockdowns, sporting events etc) and this context is important when considering such data.

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The public disclosure of CVC and overage information may therefore harm the competitive position of access seekers and TPG does not believe it would promote competition for the ACCC to publish this information.

Introduction of Enterprise Ethernet reporting

TPG supports the ACCC requiring NBN Co to report on its Enterprise Ethernet services in order to assist the ACCC to monitor and assess NBN Co's involvement in the wholesale enterprise market and more broadly NBN Co overbuilding infrastructure and expanding in competitive markets.

TPG supports the ACCC publishing limited market share data (rounded to the nearest percentage) regarding resellers of wholesale Enterprise Ethernet services. However, TPG opposes the ACCC publishing any data regarding the number of Services in Operation on an access seeker level, noting that the enterprise market is competitive. TPG does not consider publication of Services in Operation data would promote competition or promote efficient investment in infrastructure, particularly given non-NBN operators compete in the enterprise market, and publication of information about NBN Enterprise Ethernet services, without any further context regarding the overall enterprise market, would draw an incomplete picture of competition.

Introduction of Business Satellite Service reporting

TPG understands that a small number of retailers supply NBN Business Satellite Services. TPG does not consider there would be pro-competitive benefits in publishing data regarding Business Satellite Services, but appreciates the ACCC's desire for NBN Co to report this information to assist the ACCC to monitor the market.

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Publication of TC1, TC2 and TC4 capacity information and utilisation

TPG does not support CVC utilisation data being reported publicly by the ACCC. TPG considers that this information should continue to be treated as confidential and commercial in confidence by the ACCC.

TPG's response to the ACCC's proposal to disclose CVC and overage information (as detailed above) also apply in relation to publication of CVC utilisation data.

Further, TPG understands that the purpose of the NBN SIO RKR is to enable the ACCC to monitor and understand how competition is developing over the NBN at a wholesale level. TPG considers that disclosure of CVC utilisation is most relevant to the retail market and does not believe disclosure of this information is relevant to competition at the wholesale level. As the ACCC acknowledges, utilisation is subject to a number of factors and can change depending on an RSP's customer usage profile, an RSP's own business models and time of use. These factors are all RSP-specific and given the inherent variabilities, any decision to publish CVC utilisation data, along with the appropriate context, should be made by each RSP on an individual basis.

Data regarding NBN Co's delivery of service standards

TPG supports the ACCC requiring NBN to report on the delivery of NBN Co's current service standard



commitments and the metrics identified in the Consultation Paper. TPG also supports disclosure of this data to improve transparency around the quality of NBN Co services.

If you have any questions in relation to our response, please feel free to contact us.

Yours sincerely

TPG Telecom Limited