



28 July 2017

Mr Grahame O'Leary  
Director Assistant Director  
Australian Competition & Consumer Commission (ACCC)

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Dear Mr O'Leary,

**Re: Review of the National Broadband Network Services in Operation Record Keeping Rules (NBN SIO RKR) and NBN Wholesale Market Indicators Report (WMIR)**

This letter relates to the ACCC's Consultation Paper on the Review of the NBN SIO RKR and NBN WMIR published in June 2017. Telstra supports the continued operation of the RKR and the re-issue of the associated Disclosure Direction on the same terms as currently in place for a further period of three years. Telstra considers it unnecessary to vary the RKR or Disclosure Direction, and that the specific variations proposed by the ACCC would not be appropriate nor provide the ACCC or the public with useful information. Responses to the specific questions included in the Consultation Paper are provided in the Attachment.

**The CVC capacity acquired by each access seeker group (and AVCs per CVC link) should not be publicly disclosed**

The ACCC is seeking views on "*whether to vary the RKR to require NBN Co to report on the number of AVCs per CVC link at each POI to provide more granularity of demand information*". Telstra assumes that this information is sought in order to better understand broadband speed performance for end users.

CVC capacity can be divided into two component parts based on the time averaged utilisation in a given busy hour:

1. The average total capacity used by all end users on the CVC (demand); and
2. The average capacity that is unused (headroom).

The total CVC capacity acquired by individual access seekers will be a function of both actual demand, which is in turn influenced by the size, characteristics and acquired service speeds of their customer base, and the various decisions that access seekers make about

headroom. The average CVC capacity per end user can thus be expected to vary considerably between access seekers. The proposed measure is unhelpful for comparisons between access seekers as it is not related in any meaningful way to the download speed experienced by end users, which is impacted by a multitude of other factors including performance of the network components under NBN Co's control.

Further, the information is commercially sensitive and if publicly disclosed has the potential to:

- Cause confusion for end users, who could not be expected to understand the multi-faceted causes of speed performance or that a lower average capacity does not equate to end users getting a poorer level of service;
- Cause confusion for the financial markets in that it may enable calculation (accurately or inaccurately) of the CVC price paid by individual access seekers; and
- Lead to less competitive behaviour if access seekers are provided with information about each other's customer base and provisioning behaviour.

While Telstra believes this information is of limited utility, if it is sought it should be contained to the ACCC for their purposes and should also be provided to the access seeker to allow feedback in the event that there is any inconsistency between NBN Co reported data and access seeker data. The ACCC should avoid reaching conclusions based on this data without first engaging with access seekers.

### **CVC utilisation thresholds by access seeker should not be publicly disclosed**

The ACCC is also seeking views on *“whether to include an additional requirement for NBN Co to provide information identifying when utilisation by an access seeker exceeds a certain capacity for a CVC link over a particular period... [to] provide the ACCC with visibility of access seeker traffic management behaviour.”* Again, Telstra assumes that this information is sought in order to better understand broadband speed performance for end users.

In the description provided above of total CVC capacity, the second component (headroom) reflects how much extra total capacity the access seeker has provisioned above and beyond what end users actually demand. That extra capacity is essential to provide adequate download speed performance.

However, while it may provide some insight into traffic management behaviour, the suggested utilisation measure alone cannot be used to compare the download speeds experienced by end users because access seekers using different CVC sizes would need to design widely different utilisation levels in order to achieve the same average download speeds. Access seekers manage traffic and network configuration on a dynamic basis in a range of different ways. In this context the 95% utilisation threshold that the ACCC has suggested is arbitrary (as would be any threshold) and not directly related to speed performance or end user experience. Use of the utilisation measure alone would ignore other key factors that influence speed outcomes including the CVC capacity and the mix of different speed tiers sold by an access seeker.

The public disclosure of this information would cause confusion for end users who could not be expected to understand the significance of the measures proposed nor the multi-faceted causes of speed performance. Again, while Telstra believes this information is of limited utility, if it is sought it should be contained to the ACCC for their purposes and should also be provided to the access seeker to allow feedback in the event that NBN Co reported data does not align with access seeker data.

**For the ACCC to better understand end user speed performance, additional information could be requested relating to NBN Co network elements**

In broad terms, the end user experience depends upon the end to end network. Parts of that network (CVCs and core network links) are under the control of access seekers, but other parts are under the control of NBN Co. The ACCC could consider extending the reporting to cover capacities and utilisations in the NBN Co network elements (links, shared partitions etc.) between the POI and the end user, so as to allow an access seeker to estimate the performance impact of those network elements in tandem with its own CVC and core network links. For the ACCC to be able to meaningfully understand the broadband speed performance that end users can expect, they will need to factor in information about how the NBN network elements are performing, not just assess performance at the interface between the access seeker and the NBN infrastructure.

If you have any questions please contact Geoff Golden on (03) 8694 1428 or [geoff.golden@team.telstra.com](mailto:geoff.golden@team.telstra.com).

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Jane - 3' followed by a flourish.

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