



4th March 2014

Dr Annette Weier
A/g General Manager,
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Australian Competition & Consumer Commission
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By email: Annette.Weier@acc.gov.au

Dear Annette

REPORT ON TREATMENT OF NBN PAYMENTS WITHIN FIXED LINE REGULATION

Optus submitted in response to the current Fixed Line Services Declaration Inquiry that the long term interest of end-users would be promoted by ensuring that regulated terms of access take into account the payments made by NBN Co to Telstra for the leasing and purchase of elements of the PSTN customer access network (CAN).

Telstra expects to receive around \$3.3 billion from NBN Co in revenue for access to fixed-line assets during the period of the next declaration (2014-2019).¹ The latest financial results show that Telstra received \$249 million in NBN related revenues for the first half of FY2014. This included \$139 million in Infrastructure Services Agreement payments, which accounts for rental income associated with access to network infrastructure and the sale of lead in conduits.² This is expected to increase over the next few years as NBN Co connects more premises.

Optus notes that the agreement with NBN Co covers many of the same assets that are included in the Telstra CAN, parts of which are recovered from access seekers. The payments to be received from NBN Co will likely cover a large proportion of the annual revenue requirement for the CAN as calculated by the fixed line services model (FLSM).

It is important for the ACCC to capture these payments. Failure to account for them will potentially result in Telstra over-recovering its costs. Optus has engaged NERA Economic Consulting to prepare an expert report looking at how best to incorporate the NBN Co payments into the existing FLSM. The report is attached to this letter.

¹ Telstra, *Telstra's participation in the roll-out of the National Broadband Network*, Explanatory Memorandum for the resolution under item 2 at the annual general meeting on 19 October 2011

² Telstra, Presentation from Analyst Briefing – Half-Year Financial Results for the year ended 31 December 2013, p.10



NERA concludes that the long term interest of end-users is best served by a methodology that delivers the lowest wholesale access price. Consequently, the ACCC should adopt a revenue approach when dealing with NBN Co payments. The revenue approach requires reducing the annual revenue requirement in the FLSM by the amount of annual NBN Co payments received that are relevant to the FLSM. NERA also highlight that the revenue approach is widely accepted by regulators when the risk of less efficient outcomes may offset the high information and compliance costs of alternate approaches.

While the Access Determination process has not yet begun, Optus believes that the key issue of how best to take into account NBN Co payments within the FLSM is of sufficient importance for the ACCC to begin consideration of the issue. Optus welcomes the opportunity to discuss this issue further with the Commission.

Regards

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Manager Economic Regulation