

**Supplementary Submission in Response to Ministers’ Letter**

**October 2014**

The CCC has commissioned Frontier Economics to prepare its primary submission to the Fixed Line Services Review.

The CCC wishes to add to Frontier’s comments with this further short submission responding to some of the points raised in the letter of 16 July 2014 from the Minister for Communications and the Minister for Finance. The CCC endorses the positions of Optus in its August 2014 Submission in response to the same letter.

The CCC is a strong supporter of the structural reform to be delivered through the gradual replacement of Telstra by NBN Co as the provider of core national wholesale access services.

The CCC submits that policy stability is best communicated through regulatory consistency, and the proposition - that the impact of the payments to Telstra by NBN Co on the domestic operating and competitive environment can be ignored in this FAD - risks undermining confidence in the Commission’s processes, and harming the long term interest of end users by giving rise to distortions in the market.

While accounting for the NBN payments in the regulatory framework may be complex, this does not mean that they should be excluded from consideration.

The CCC believes:

* The payments by NBN Co to Telstra are, at least in part, payments for disposal of assets and must be taken into account if the Commission is to maintain consistency with its own practice.
* Payments in the form of rental for elements of Telstra’s network, if unaccounted for in the FAD processes, could result in the over-recovery of costs and too-high access prices.
* The Commission explicitly indicated in its previous FAD process that it would take account of the decommissioning of assets that form part of the regulated CAN - and the payments associated with these changes - in future pricing deliberations.
* Telstra asked for, and received shareholder approval for the definitive agreement with NBN Co after the Commission indicated its intention.
* A failure to take account of these payments would have a detrimental impact on competition, and be contrary to the interests of end users.

The Definitive Agreement struck between Telstra and NBN Co in 2011 amounts, in part, to an agreement of terms under which Telstra will dispose of assets. While the details of re-negotiation of that agreement to accommodate the proposed change in technologies deployed by NBN Co, consistent with Government policy, remain unclear, there is reason to believe this will also be an agreement for the disposal of assets that are elements of the CAN. The CCC believes the payment for these assets should be considered in determining the revenues Telstra receives from the CAN assets and the disposed-of assets should no longer form part of the RAB.

Further, there are assets for which Telstra will receive an ongoing revenue stream from NBN Co. There is a risk of over-recovery and too-high access prices if these revenues are not taken account of in the FAD.

The Commission indicated in its July 2011 FAD that it would need to consider the impact of the disposal of assets by Telstra to NBN Co in future FAD processes. The approval by Telstra shareholders of the DA occurred three months later, in October 2011.

The CCC submits that a decision by the Commission in this process to not take account of the impacts of the DA between Telstra and NBN Co would be a significant reversal of the Commission’s previously clearly stated course of action.

Such a change of direction would not only cause great uncertainty and instability for access seekers, but it would likely have a material impact on the prices for these crucial regulated services in the FAD, materially weaken their competitive position, and lead to higher prices for end users.

The CCC notes that the Commission, in its report of February 2014 *Changes in the Prices Paid for Telecommunications Services in Australia 2012-13*, found prices for basic voice and access services had plateaued. The CCC believes these prices are already uncompetitively high by comparison with other OECD economies, and accelerating a rate of reduction of wholesale prices should be a priority matter for the Commission.

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