



28 July 2015

Ms Jane Goldwater  
Director, Access Pricing and Financial Analysis  
Australian Competition and Consumer Commission  
360 Elizabeth Street  
Melbourne 3000

By email: [Jane.Goldwater@accc.gov.au](mailto:Jane.Goldwater@accc.gov.au)  
Cc: [fixedservices@accc.gov.au](mailto:fixedservices@accc.gov.au)  
Cc: [Robert.Wright@accc.gov.au](mailto:Robert.Wright@accc.gov.au)

### Public Version

Dear Ms Goldwater,

## Public inquiry into final access determinations for fixed line services – primary price terms – Further Draft Decision

**nbn** welcomes the opportunity to comment on the ACCC's Further Draft Decision on the Public inquiry into final access determinations for fixed line services – primary price terms (**the Further Draft Decision**).

The focus of this submission is on the ACCC's proposal in the Further Draft Decision to make changes to the cost allocation factors such that costs associated with the loss of scale economies due to the migration to the **nbn**<sup>TM</sup> network are borne solely by Telstra Retail and not by access seekers.

For the reasons discussed below, **nbn** submits that the Final Decision on fixed line services pricing should:

- subject to maintaining consistency with the fixed principles, seek to deliver price stability during the migration to the **nbn**<sup>TM</sup> network;
- not make any adjustments to cost allocation factors (or RAB values) for the loss of scale economies and asset redundancy; and
- seek to levelise pricing over the migration to the **nbn**<sup>TM</sup> network.

The importance of pricing stability for fixed line services provided over the legacy copper network during the migration to the **nbn**<sup>TM</sup> network has been raised previously by the Minister for Communications and the Minister for Finance<sup>1</sup>, and the Department of Communications<sup>2</sup>. This is clearly a relevant consideration in determining fixed line service pricing because, subject to maintaining consistency with the fixed principles, price stability is likely to promote the long term interests of end users in the current context. **nbn** notes that the most recent ACCC Competitive Safeguards Report includes statements that are consistent with this; for example, the ACCC says that it is "continuing work to ensure a smooth transition to the NBN"<sup>3</sup>.

Based on the ACCC's media release (29 June 2015), it appears that the approach proposed by the ACCC in the Further Draft Decision is intended to stop prices from reaching 'absurd levels for the unlucky last copper customers'. **nbn** would make two points in relation to this. First, an alternative and more conventional

---

<sup>1</sup> Letter to the ACCC from the Minister for Communications and the Minister for Finance, 16 July 2014.

<sup>2</sup> Department of Communications, Submission in response to the Discussion Paper, 3 October 2014.

<sup>3</sup> ACCC, Competitive Safeguards Report 2013-14, February 2015, p.62.



approach for dealing with the progressive loss of scale economies and asset redundancy would be to levelise the charges for fixed line services over the period of the migration to the **nbn**<sup>TM</sup> network. This would provide Telstra with the opportunity to recover its costs (consistent with the fixed principles) and provide end-users with copper pricing that is stable over the migration to the **nbn**<sup>TM</sup> network. The ACCC has previously sought to levelise charges in other contexts; for example, in a situation that is a reverse of the current one in terms of the time profile of demand, the ACCC levelised service specific costs for ULLS and LSS when demand for those services was very low but expected to grow substantially over subsequent years.

Secondly, the ACCC's proposed approach appears inconsistent with Telstra having the opportunity to recover its costs through the fixed lines services pricing, consistent with the fixed principles. The ACCC states in the Further Draft Decision that Telstra had "the opportunity to ensure that it received consideration for the impacts of the NBN through the Definitive Agreements, including in respect of the costs associated with the loss of economies of scale and asset redundancy."<sup>4</sup> However, **nbn** notes that the ACCC has neither explicitly accepted nor rejected Telstra's submission that the Definitive Agreements do not compensate Telstra for these costs. In the absence of any apparent evidence to the contrary, Telstra's submission should be accepted and the costs associated with the loss of economies of scale and asset redundancy should be recovered from fixed line services pricing.

Separate to the above factors, **nbn** would like to highlight to the ACCC that on the balance of probabilities the proposed 9.6% decrease in pricing for fixed line services is expected by **nbn** to lead to a slower rate of migration to the **nbn**<sup>TM</sup> network within the 18 month disconnection time window (as described further in the confidential Attachment A). This would be an unfortunate and unexpected outcome, particularly given the ACCC's previous statements on ensuring a smooth transition to the **nbn**<sup>TM</sup> network.

Please let me know if you would like to discuss any aspect of this letter.

Yours sincerely

A handwritten signature in blue ink that reads "Caroline Lovell". The signature is written in a cursive, flowing style.

Caroline Lovell  
Chief Regulatory Officer

---

<sup>4</sup> ACCC, Further Draft Decision on the Public inquiry into final access determinations for fixed line services – primary price terms, June 2015, p.71.



## Attachment A

Potential impact of 9.6% reduction in fixed line services pricing on migration to the nbn<sup>TM</sup> network

**[Redacted - Confidential of particular sensitivity]**