

EXECUTIVE OFFICE



**Australian  
Competition &  
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Commission**

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11 April 2013

The Hon Robert Oakeshott MP  
Chair  
Joint Committee on the National Broadband Network  
PO Box 6021  
Canberra ACT 2600

**Sent by email: [jcnbn@aph.gov.au](mailto:jcnbn@aph.gov.au)**

Dear Mr Oakeshott

### **Review of the Rollout of the National Broadband Network: Fifth Review**

I write in response to your correspondence to Australian Competition and Consumer Commission (ACCC) Chairman Rod Sims dated 19 March 2013 providing questions on notice to the ACCC to assist the Joint Committee on the National Broadband Network in its Fifth Review of the Rollout of the National Broadband Network.

The ACCC's answers to the questions outlined by the Joint Committee are provided below.

*What is the time frame for the ACCC's consideration of the current National Broadband Network (NBN) Co Special Access Undertaking (SAU)?*

The statutory deadline by which the ACCC must make a final decision on the SAU is currently 19 July 2013.

The ACCC expects that its next step in the SAU assessment process is to issue to NBN Co a formal notice to vary the SAU around May 2013. Issuing a formal notice to vary will have the effect of extending the statutory deadline for making a final decision. If NBN Co submits a varied SAU in response to the ACCC's notice to vary, the ACCC will consult on the varied SAU. If the varied SAU closely reflects the provisions of the notice to vary, subsequent consultations should be relatively brief given the extensive consultation that will have already occurred by that time in response to the ACCC's consultation paper, which was released on 4 April 2013.

*Is the time taken to reach this point in the SAU consideration process usual? If not, how has it differed from that undertaken previously in relation to other SAUs?*

Yes. The SAU was submitted in December 2012 and the draft decision was released in April 2013. This is consistent with timeframes for the ACCC's assessment of other undertakings and other regulatory processes.

*Is there a requirement for the NBN Co to extend the terms of the Wholesale Broadband Agreements in place until the SAU consideration process has been concluded?*

No. The ACCC has previously indicated that it expects parties to agree to short term arrangements for the continuing supply of NBN Co's services until assessment of the SAU concludes and the regulatory framework is established.

*Have the pricing guarantees in the revised NBN Co SAU remained the same? If not, what has changed?*

No. The SAU submitted in December 2011 contained commitments to limit price increases for each of NBN Co's services to half the increase in CPI in each year. The SAU submitted in December 2012 contains commitments to limit price increases for each of NBN Co's services to CPI - 1.5 per cent in each year.

The December 2011 SAU also included processes via which NBN Co could request ACCC approval to increase prices by an amount greater than permitted by the price controls. The December 2012 SAU does not include processes for increasing prices by more than permitted by the price control.

*As part of the Fourth Review, the ACCC commented that it 'will consider whether more binding pricing commitments to lower the usage based charge are required.' Will the ACCC still consider this aspect of the SAU?*

Yes.

*Are there any other issues the ACCC would like to raise with the committee in reference to the Fifth Review?*

No.

I trust this information is of assistance and I can be contacted on (02) 6243 1124 should you wish to discuss.

Yours sincerely



Brian Cassidy  
Chief Executive Officer