



## Media release

Tuesday 2 May 2023

### NBN Co acknowledges ACCC draft decision on Special Access Undertaking (SAU) Variation

NBN Co today acknowledged the Australian Competition and Consumer Commission's (ACCC) draft decision on its proposed Special Access Undertaking (SAU) Variation.

Since lodging its proposed SAU Variation in November 2022, NBN Co has been working to address a number of outstanding concerns expressed by the ACCC. This resulted in a letter sent by NBN Co to the ACCC on March 24 and made public today, which outlines a number of proposed further amendments that **nbn** is willing to make, having anticipated the ACCC's draft decision.

The ACCC has confirmed today that it considers NBN Co's November 2022 pricing proposal "reasonable for the AVC price of the standard 50 megabits per second wholesale offer...and for CVC charges to be phased out over the first regulatory cycle (FY24 – FY26)."

NBN Co will reflect on the ACCC's draft decision and continue to work constructively with the ACCC and other industry stakeholders during the next round of consultation. We will consider all views expressed in the forthcoming consultation with a view to formally withdrawing the November proposal and lodging an amended SAU Variation proposal with the ACCC in early June 2023.

NBN Co's letter to the ACCC outlined a number of adjustments the company is planning to make to its proposed SAU Variation, which **nbn** believes provides a pathway to acceptance, including:

#### **Wholesale pricing of the 50/20 Mbps bundle**

NBN Co's proposed 50/20Mbps pricing is designed to deliver positive outcomes for consumers, RSPs and NBN Co.

NBN Co has also confirmed its plans to remove CVC (capacity) charges and introduce AVC-only pricing for the **nbn** Home Fast (100 Mbps) and above wholesale speed tiers within three months of SAU Variation acceptance.

The entire proposed pricing framework encourages Retail Service Providers (RSPs) to match customers with heavy data consumption patterns to high speed **nbn** plans suitable for their needs, supporting better customer experience, better margins for RSPs and sustainable revenue growth to enable continued investments in the **nbn**® network.

NBN Co intends to offer all RSPs a number of additional monitoring and reporting tools, as well as continue to maintain high levels of direct engagement, which will provide insights into bandwidth consumption at individual customers. The tools and insights will help RSPs to identify opportunities to help retailers to match customers with the best broadband plans for their needs, minimise wholesale costs and maximise their use of available network capacity.

The company is also planning to extend a CVC TC-4 overage waiver threshold for RSPs that are sub-scale at a Connectivity Serving Area (CSA), effectively removing CVC TC-4 overage charges for such CSAs and promoting the expansion of services to customers in areas where that RSP has previously had minimal or no market presence.

The proposed overage waiver threshold has been adjusted to 700Mbps or less of CVC use, measured daily, which accounts for the **nbn** Home Fast (100Mbps) and above wholesale speed tiers moving to AVC-only wholesale pricing and the introduction of a utilisation-based billing approach under the proposed SAU Variation. NBN Co has consulted RSPs on these changes and intends to incorporate them as part of the new Wholesale Broadband Agreement (WBA).

### **Annual Service Improvement Plan and Service Performance Review**

NBN Co recognises that benchmark service standards and ongoing improvements to customer experience are key issues for RSPs and an important consideration in the ACCC's assessment of the SAU Variation.

NBN Co is proposing to incorporate a new commitment for the first regulatory cycle (FY24 – FY26) to publish an annual Service Improvement Plan and conduct an annual Service Performance Review against set WBA service levels and performance objectives.

The Service Improvement Plan will be published after the commencement of the relevant financial year and provide transparency of those initiatives focused on uplifting the RSP / end user experience commencing or continuing in the next 12 months, which are forecast to incur material capital or operating expenditure.

The Service Performance Review will provide a structured review of WBA service standards, **nbn**'s performance against these over the prior 12-month period, and related RSP feedback. NBN Co will publish a Service Performance Review by the end of FY24 and FY25, including any service standards changes **nbn** is considering in response to the review.

These commitments are in addition to the Benchmark Service Standards commitments **nbn** has already proposed in November – including the ACCC's ability to amend Benchmark Service Standards in response to Retail Service Standard Regulation or a Systematic Service Standard Event during a regulatory cycle.

### **Basic broadband service**

NBN Co has considered feedback from RSPs and plans to amend the definition of what was previously described as a 'voice-only bundle' to accommodate and enable basic broadband usage.

### **Post-2032 arrangements**

NBN Co reaffirmed its plans – subject to acceptance of the SAU variation – to reduce the Initial Cost Recovery Account (ICRA) from an estimated \$44 billion to \$12.5 billion and forgo the recovery of any further regulatory losses in the period after FY23.

The company proposes to make a number of changes to address the ACCC's concerns relating to the post-2032 arrangements. The changes seek to establish an appropriate drawdown profile of the Module 3 ICRA, over the period from 2032 to 2040, that affords the company a reasonable opportunity to transition to a position in which it can satisfy quantitative financial metrics consistent with achieving and maintaining a standalone investment grade credit rating with a stable outlook.

NBN Co plans to retain the proposed SAU Variation provisions that substantially expand the ACCC's role under the SAU from 2032 onwards, which will give the ACCC the power to reset NBN Co's revenue and pricing regulation framework from 2032.

### **Replacement module determination process**

NBN Co proposes to make two changes to address issues raised by the ACCC in their Consultation Paper. The first involves a new clause that makes it clear the ACCC can require NBN Co to provide specific information when it lodges a Replacement Module Application.

The second clause gives the ACCC the ability to extend its decision-making period for a Replacement Module Determination by up to six months, which effectively extends deliberation time to up to 24 months in total.

The changes seek to strike the appropriate balance by providing the ACCC with sufficient time to make informed decisions, while providing RSPs and NBN Co with regulatory certainty on the terms that apply at any point in time.

**Jane van Beelen, Chief Legal and Regulatory Affairs Officer at NBN Co, said:**

“The ACCC’s draft decision provides further guidance on matters for consideration, and potential changes we could make in response.

“We will work quickly and constructively to deliver a revised SAU Variation proposal in June 2023, which will be subject to further consultation.

“Once the SAU Variation is accepted and implemented through our new Wholesale Broadband Agreement, which is being developed in parallel, we look forward to delivering new wholesale prices, additional data inclusions and certainty to RSPs, customers and the industry as a whole.”

**ENDS**

Media enquiries:

**Greg Spears**

Email: [gregspears@nbnco.com.au](mailto:gregspears@nbnco.com.au)

Mobile: 0406 315 014

**Brendan Hennessy**

Email: [brendanhennessy@nbnco.com.au](mailto:brendanhennessy@nbnco.com.au)

Mobile: 0458 644 377



For further information, visit [www.nbnco.com.au](http://www.nbnco.com.au)