



Australian
Competition &
Consumer
Commission

ACCC response to the Productivity Commission's Draft Inquiry Report into the Telecommunications Universal Service Obligation

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Telecommunications Universal Service Obligation Inquiry

The Australian Competition and Consumer Commission (ACCC) welcomes the publication of the Productivity Commission's (PC) draft report in its inquiry into the Telecommunications Universal Service Obligation (USO).

The ACCC's first submission supported a universal service regime remaining in place to ensure consumers are able to access essential communications services. While recognising that the national broadband network (NBN) will be the wholesale universal services provider, we recommended that the USO regime be strengthened in relation to voice services, including through the introduction of a competitive process to select a universal service provider in areas outside of the NBN's footprint.

We also recommended that the USO be funded through a framework that promotes economic efficiency, contestability, sustainability and equity.

This submission sets out our observations in relation to the draft recommendations in the report about:

- (a) The need to phase out the existing USO and to reframe the policy objectives,
- (b) NBN as the wholesale universal service provider,
- (c) The adequacy of NBN's voice services outside of the fixed broadband network,
- (d) The need for targeted government intervention where market gaps occur and the design of such programs, and
- (e) Consumer safeguards and assistance for groups with special needs.

Extending the universal service obligation to include broadband and voice services

The ACCC supports the PC's draft recommendation to phase out the existing USO as soon as possible. The increase in the use of broadband and mobile services, and the decline in use of the standard telephone service illustrates that current USO arrangements are declining in relevance and are not fit for purpose. However, a universal service regime of some kind will continue to be important to ensure that essential communications services are available, accessible and affordable for all Australian consumers no matter their circumstances.

As such, we also support the Productivity Commission's draft recommendation to reframe the universal service policy objective to include the availability of both broadband and voice services of a baseline quality to all Australian premises. We consider that such a change will encourage social inclusion and ensure that consumers in areas where there is only one retail provider will be able to access an affordable service that meets their needs.

NBN as the wholesale universal infrastructure provider

The NBN is intended to connect all Australian premises to a broadband service and services provided using the NBN are, or will be, available from a range of retail service providers and subject to wholesale pricing regulation. We note the government has released an exposure draft Telecommunications Legislation Amendment (Competition and Consumer) Bill 2017 which proposes the NBN Co be the default statutory infrastructure provider (SIP) across Australia. We consider that an explicit recognition of the role of NBN Co as the statutory

infrastructure provider will give consumers and industry certainty that they will have access to underlying telecommunications infrastructure and services, wherever they reside.

As the wholesale universal service provider, we consider that NBN Co should be subject to express service standards. At the time that NBN Co provided a Special Access Undertaking to the ACCC, it acknowledged that service level commitments would be necessary as the rollout of the NBN reaches scale. It was proposed that service levels would include matters such as end-user connections, activations, service fault rectifications, network performance and availability, compensation for consumers similar to that set out in the consumer guarantee standard and corrective action. Part XIC provides a framework for such matters to be included in regulatory determinations.

We note in the current Wholesale Broadband Agreement (WBA), service levels for fault response and rectification are outlined in the Service Levels Schedule. These standards apply between NBN Co and the access seeker (or retail services provider). These targets provide a base upon which service levels that would apply between retail service providers and consumers could be developed. We also consider that similar service standards should apply where another universal service provider is selected through a competitive process.

Under the proposed introduction of a SIP regime into the *Telecommunications Act 1997*, the minister would have a reserve power to set standards, rules and benchmarks that SIPs must meet if services are not of an appropriate quality. It would of course, be open to the SIP to include appropriate standards in its access agreements that would meet RSP and consumer expectations or for such service standards to be included in an access determination under Part XIC.

NBN voice service adequacy

As noted in your draft report, not all NBN infrastructure may be capable of providing the same quality of service due to technological limitations. In particular, the ACCC understands NBN satellite voice services have exhibited latency issues and service degradation in poor weather which may have implications for the USO.

If NBN satellite voice services are found to be adequate, the regulatory framework regarding wholesale pricing and retail competition on the NBN should be sufficient to provide available and affordable broadband services in NBN satellite areas.

However, if NBN satellite voice services are found to be inadequate, alternative means of delivering a voice service that meet a baseline quality will be needed.

The ACCC supports the draft recommendation to use competitive tendering wherever feasible to deliver telecommunications universal service programs. However, we recognise there may be instances where competitive tendering may not be effective due to a lack of market depth. In these situations, the ACCC supports the PC's recommendation that, at a minimum, the Government subject all proposed costings of providing universal services to an independent and transparent validation process.

We have also considered whether mobile services can be used to meet the USO in NBN satellite areas. It is likely that while some consumers will be in NBN satellite areas and able to receive mobile coverage, other consumers in these areas will not have mobile coverage from any mobile

network operator and will not be able to rely on a mobile service for the purposes of the USO. As such, we look forward to information provided to the PC on the adequacy of NBN's satellite in providing a baseline voice service, and any information on practical and cost effective alternatives to NBN satellite in areas that currently do not have mobile coverage.

Provision of voice services outside the NBN fixed footprint

Telstra is contractually obligated to provide the USO as part of the Telstra Universal Service Obligation Performance Agreement (TUSOP). Currently under the TUSOP, Telstra is required to provide the USO for consumers outside the NBN fixed footprint by using its copper network where available (known as the 'copper continuity obligation or CCO'). This is subject to certain exemptions, in which case the TUSOP does not specify the technology Telstra must use to provide the 'standard telephone service'. Telstra currently uses its copper network, and satellite and wireless services to meet its USO obligations.

The TUSOP also provides for a review of technology that Telstra uses to provide the USO in 2021. It is likely that at that time, new technologies will be available that will improve the quality of voice services offered over satellite technology. We consider that should technologies be available or become available prior to the 2021 review, they should be explored as a means of improving the quality of voice services provided over satellite technologies by NBN. If NBN can access improved technologies, then it should be able to offer voice services outside of the NBN fixed footprint, allowing for the removal of the standard telephone service USO and the cessation of the CCO. This not only avoids infrastructure duplication, but it would provide consumers with an acceptable voice service from a range of retail providers, rather than only one.

Targeted government intervention

The draft report outlines the various programs that are funded by governments to promote universal service objectives. As noted by the PC, the Mobile Blackspots Programme is one such program that seeks to improve the availability and accessibility of mobile services through targeted funding. As noted in the draft report, mobile coverage is an important issue in Australia, particularly for consumers and businesses in regional area.

Where government funding is directed to targeted interventions, such as the Mobile Blackspot Programme, we consider that the design of any tender process will be critical to meet the objectives of universal service. Principles such as promotion of competition, the efficient use of infrastructure, and the long-term interests of end-users would assist in improving the outcomes of such programs. Interventions should also be appropriately targeted and designed to minimise market and competitive distortions.

We also support in principle the recommendation to revise current infrastructure arrangements to promote co-location or other sharing arrangements. However, we acknowledge that implementation of an effective infrastructure sharing regime can provide challenges, particularly of a technical nature.

ACCC Record Keeping Rules

The ACCC currently collects information from industry stakeholders about telecommunications infrastructure under record keeping rules (RKRs). Under section 151BU of the *Competition and*

Consumer Act 2010, the ACCC has the power to make a RKR by written instrument and require that carriers and carriage service providers comply with it. The rules may specify what records are kept, how reports are prepared and when these reports are provided to the ACCC.

At present, the ACCC collects information about infrastructure under the following RKRs:

- Customer Access Network (CAN): The CAN represents the link between the telephone exchange and the customer. Telstra reports the total number of unconditioned local loop service (ULLS), line sharing service (LSS) and its own voice and digital subscriber line (DSL) services that are in operation as at the end of the calendar quarter.
- Access to Telstra Exchange Facilities (TEF RKR): The TEF RKR requires Telstra to report information on access seekers who are currently in queue to gain access to Telstra exchange facilities, where access seekers can install and operate their own equipment for interconnection with Telstra.
- Infrastructure (Infrastructure RKR): The Infrastructure RKR requires specified carriers to report on the locations of their core network and customer access network (CAN) infrastructure.
- Division 12: The ACCC is required to report annually to the Minister for Communications on changes in the prices paid for telecommunications services in Australia. The Division 12 RKR enables the ACCC to collect information from service providers specified in the RKR for this purpose.
- NBN Services in Operation: The NBN Services in Operation RKR requires NBN Co to provide information on the number of Access Virtual Circuit (AVC) services in operation, the amount of Connectivity Virtual Circuit (CVC) capacity being acquired and average CVC utilisation over the NBN. It also examines the number of access seekers at each Point of Interconnection.

Record keeping rules are essential in allowing the ACCC to monitor competition, monitor market developments and to inform regulatory decisions. We support the PC's observations of the need for more publicly accessible information about telecommunications infrastructure and will give further consideration to how this information can be collected under the current RKRs.

Consumer Safeguards

Groups with particular needs

We agree with the PC's draft finding that, in terms of accessibility and affordability, certain groups of people with particular needs, such as people with disabilities or health conditions, and consumers in regional, rural and remote indigenous communities, may require additional measures to meet the objectives of the USO. We recognise there may be merit in some community wide initiatives, and also merit in some targeted programs.

Further consideration should be given to the needs of these groups to ensure that any measures that are introduced are informed by evidence and consultation with the consumers likely to be affected.

Other consumer safeguards

As noted in the draft report, any transition away from the current USO will need to be supported by necessary adjustments to the surrounding regulatory framework, including consumer safeguards, carrier licence conditions, and other policy measures. In particular, the Customer Service Guarantee and the National Reliability Framework provide current standards for connection, fault rectification, and reliability and are intrinsically linked with the current USO. The ACCC supports the draft recommendation that any review of consumer safeguards should be expedited to ensure important consumer safeguards remain in place, during, and after, any changes to the USO.

If you have any questions about the issues raised in this or earlier submissions, please contact Clare O'Reilly