



Internet
Association
of Australia

INTERNET ASSOCIATION OF AUSTRALIA
ABN 71 817 988 968
ACN 168 405 098
PO Box 8700
Perth Business Centre WA 6849
Phone: 1300 653 132

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NBN Co

Tower 5, Level 14

727 Collins Street

Docklands Vic 3008

Level 13

100 Mount Street

North Sydney NSW 2060

By email: SAUConsultation2022@nbnco.com.au

CC: Sean Riordan sean.riordan@accc.gov.au

RE: Discussion Paper on Proposed Changes to NBN Co SAU Variation

INTRODUCTION

Thank you for the opportunity to express the Internet Association of Australia's (IAA) perspective on the Discussion Paper on the proposed NBN SAU Variation. Many of IAA's members are small to medium sized Internet Service Providers (ISPs) who are also NBN Retail Service Providers (RSPs). Our response is primarily representative of our smaller RSP members, as well as in support of the general well-being of the internet and the internet industry.

IAA has been actively involved in consultations concerning the proposed SAU, and we appreciate the continued efforts of NBN Co in working with industry, ACCC and other stakeholders to ensure the development of a fit-for-purpose SAU.

From the outset, we acknowledge that the proposals as per the Discussion Paper are a positive step forward for the industry. However, we believe there are still certain issues or areas that require improvements and/or greater clarity to ensure that NBN Co remains an infrastructure provider that fundamentally exists to provide high-speed, high-quality broadband for *all* Australians. In particular, as NBN Co navigates through upgrades, making potential trade-offs, a commitment transparency and open consultative processes is fundamental to ensure that the SAU will be for the benefit of the industry and the end-user.

One key issue is that of transparency. While it is understandable that some issues are, and always will be, subject to commercial sensitivities, it is essential that NBN Co improve its level of transparency and expand its consultation processes beyond the closed PDP and meetings with selected RSPs. Greater transparency would increase trust and confidence and improve the sense of partnership between NBN Co and its customers, and in turn promote the confidence of end users. For example, it is our understanding that discussions relating to fault definitions have been confined to a subset of those who are party to WBA4 when surely the definitions of a fault are something that the broader industry and consumers are affected by and therefore would have an interest? Furthermore, such items should be posed as proposals, and not presented as a fait accompli, take it or leave it thing.

OUR RESPONSE

PRICING

CVC Pricing

In general, we welcome NBN Co's commitment to remove the CVC pricing on Fixed Line and Fixed Wireless TC-4 services. We understand that an immediate transition to AVC-only pricing model may not be feasible, or beneficial for both NBN Co and RSPs, and thus ultimately the consumer. However, our members have indicated concern that the introduction of a mixed CVC and AVC structure will result in the need to segregate these two classes of customers into separate paths (VLANs/CVC) as different control parameters will have to be put in place. This is therefore likely to make scaling even more difficult for smaller RSPs as providers will have to pay further upfront costs to be able to operate such a model. RSPs would need to either add more NNIs or build duplicate NNIs and backhaul, which would result in considerable costs for smaller RSPs, thus likely to force them from selling the lower speed tiers altogether, or potentially replacing lower speed tiers via satellite services. The replacement of fixed line broadband with satellite is not beneficial for the telecommunications industry, including NBN Co, and so providing RSPs and thus customers with practical nbn options should be a crucial focus for NBN Co.

Furthermore, we note that the current transition model proposes to reduce the overage charge by only \$1 per year from 2023-2025 prior to the CVC model no longer being utilised from 2026. We believe greater explanation and justification as to why this particular transition model has been proposed as opposed to a steadier transition model, involving reductions greater than \$1 per year, thereby reducing the overall yearly overage charge for RSPs.

TC-4 Bundle Offer Pricing

We support the proposal to reduce the cost for the fixed bundle charge for 12/1 broadband from the originally proposed price of \$26 to \$24.40. With regard to the other tiers, we are concerned that the increased prices will still be detrimental to both RSPs and consumers. In particular, with the price of the 50/20 tier remaining as per the March proposal, it seems the concern raised by industry regarding the price for the 50/20 tier soon converging with the cost of the 100/20 speed tier will still likely remain. While we acknowledge that there have been increased inclusions for the 25/5, 25/10, and 50/20 tiers in the new proposal to justify the increased price, we believe that the slight increase in inclusions do not justify the price that consumers will ultimately have to pay, particularly in the light of high cost of living. There seems to be no incentive for RSPs to continue to provide the 50 Mbps tier services and ultimately, the pricing model seems to be pushing consumers towards the higher speed tiers of 100 Mbps and more or downgrade to an arguably much lower speed tier service. While IAA encourages promotion of the high-speed tiers (100 Mbps) we believe this should be based on genuine consumer choice rather than it being forced.

Pricing Certainty

IAA welcomes the commitment of NBN Co to provide greater pricing certainty and view it to be a necessary step forward in collaborating with RSPs. On the whole, we support the commitments NBN Co has outlined in the Discussion Paper. However, we believe that the proposals to provide

“forward pricing visibility” and “pricing intention statements” should be further elaborated on to ensure they achieve maximum utility.

In their current forms, it suggests that both the forward pricing roadmap and the intention statement could still be subject to change, and therefore would not serve as a guaranteed pricing guide on which RSPs can rely. Furthermore, we believe that these should be open to consultation to ensure that industry can provide feedback where the proposed pricing will create difficulty for RSPs and thus consumers.

Furthermore, IAA recommends NBN Co makes the following addition to its pricing principles:

- Providing transparency as to the justification for proposed prices

COST RECOVERY

We appreciate NBN Co’s proposal to make changes to its cost recovery method in response to industry feedback on its March SAU. At this stage, as the amount of ICRA is yet to be detailed, we request that NBN Co ensures that a clear and detailed explanation is provided to appropriately justify the method that is proposed in the SAU.

Again, we emphasise the need for transparency on NBN Co’s plans for service upgrades and the need for this to be a consultative process, particularly as it relates to how prices are adjusted based on expenditure for the upgrades, and thus the necessary cost recovery for NBN Co. This is a discussion that should be put to industry more widely, as will be further explained below.

It must be stated, however, that it appears much of this process and NBN Co’s planning is driven by the cost of debt to NBN Co. IAA would therefore encourage NBN Co and government to work together such that while NBN Co remains a government business enterprise it has access to lower cost debt and can amortise the cost of investment in public infrastructure over a longer period or through some other mechanism to realise the civic good that well serviced, high quality public broadband delivers.

SERVICE STANDARDS

Benchmark Service Standards

IAA welcomes NBN Co’s proposal to include benchmark service standards in the SAU. However, we believe the proposed benchmark performance objectives as provided in Table 2 of the Discussion Paper¹ should be further improved to ensure fit-for-purpose service for consumers. We note that for the majority of objectives, excluding Priority Assistance categories, NBN Co has committed to aiming to meet 90% of service levels. We believe this should be increased to at least a 95% standard. The 90% objective potentially equates to 1 in 10 consumers not receiving fit-for-purpose services. This is simply unacceptable, particularly in the context of rising prices.

We note NBN Co’s explanation that these performance standards are reflective of its pricing commitments, and that improved service will necessarily equate to further increased prices. However, as was elucidated throughout the industry forum held by the ACCC in August, we reiterate the points raised during the forum that greater transparency is required to clarify the relationship between price and services, the trade-offs that are being made, and when industry

¹ NBN Co Limited, Discussion Paper – Proposed changes to nbn SAU Variation, p. 22

and consumers can expect to see genuinely improved service performance with any such price rises justified on the basis of network upgrades.

We believe that where such trade-offs are being made, they should be decided with industry feedback and discussion to ensure they are reasonable, appropriate and acceptable. At the current stage, there seems to be a gap between capex spent (and reflected in the proposed prices) and service levels, which industry believes should also be lifted accordingly. While it is understandable that service delivery improvement will be proportionate to the pricing structure, and even that reasonable delays may exist between the expenditure and realised service uplift, it is imperative that NBN Co is open and transparent throughout the entirety of the process so that RSPs are able to provide feedback, as well as understand where the gaps are. This will also assist RSPs to provide more transparency to consumers and thus improve trust in the overall industry. Furthermore, this will also help ensure that consumers are being placed first in all these decisions.

We emphasise that consumers don't necessarily understand or care for the justification for pricing structures and the theoretical service standards attached to the price. If price increases are not immediately reflected in improved value for consumers, this will result in consumers opting to use substitute products instead: a lose-lose situation for the industry and NBN Co.

Drop Outs

In addition, the current rate of dropouts is a critical issue that needs to be addressed as a part of the consideration of NBN Co's service standards and performance. While we understand that the fault threshold under WBA4 is an improvement on previous standards, we believe this is still not fit-for-purpose, again, nor particularly in the interest of consumers. Under the proposed benchmark service levels, a consumer may experience 4-9 outages in one day, not have this recognised as a "fault" to receive a rebate, and then in addition, fail to have this resolved through corrective actions as the benchmark for performance incidents is at 90% (and an even lower 80% for specified performance incidents). Effectively, this means that NBN Co considers it acceptable that the 1 in 10 people who have been experiencing up to 9 drop outs in a day, may not get their service fixed. Put simply, this is not an acceptable standard.

We reiterate that failure to address poor service performance despite rising costs would be gravely detrimental, not only to RSP-consumer relationships, but also to the industry more broadly. Industry has long seen consumers choose alternative network services, and this is only likely to continue should service standards continue to stagnate amidst increasing prices.

Furthermore, we believe that the fault threshold should be improved further and set to >5 in a 24-hour period, and repeating for at least 48 hours to ensure it is a genuine structural issue and not an isolated problem. Accordingly, 2-5 drop outs in a 24-hour period should be considered "performance incidents". Data also needs to be collected such that weather related issues, for example where FTTC failures occur when pits fill with water during rain, are also rectified.

ACCC POWERS

We welcome the proposal to confer additional powers on the ACCC, but believe this should be further extended. In addition to the suggested mechanism for the ACCC to review benchmark service standards where changes are made to consumer safeguards and retail-level regulation, IAA calls for such powers to be extended so that the ACCC can intervene as necessary where there are structural issues and inefficiencies that affect *industry*, and not just at the retail level.

OTHER ISSUES

NNI

We believe that this is a good opportunity to discuss the setup cost of NNI which disproportionately affects smaller RSPs. Our members have raised this to be a prominent issue that impedes their operations, with one member, currently in the process becoming an RSP, identifying the high cost of NNI as an issue that has remained a barrier in the process.

Primarily, the costs seem to be unreasonably high and are not an accurate reflection of the cost needed for NBN Co deliver NNI. Our members have also expressed concerns for the seeming duplicate charging through the initial VNNI activation fees, as well as monthly VNNI fees which has not been justified. A simple comparison with IAA's own charge for 100Gbps ports shows a significant discrepancy in price.

In addition, as the high costs poses as one of the factors that impede smaller RSPs from engaging directly with NBN Co, this results in flow on issues, such as wholesalers and aggregators often not passing on discounts and information to RSPs. Thus ultimately, the current cost of NNI poses a two-prong issue that disproportionately affects smaller RSPs.

We believe an overhaul of the NNI costs is required to either justify the current costs, or significantly reduce or remove it altogether. A proposal that has been put forth from a member is to replace the current model by embedding the cost of NNI into AVC by including \$0.25 on each AVC. According to feedback from some members, IAA is positive about this proposal as one potential solution to the current cost model of the NNI.

Low-income consumers

IAA supports the proposal to conduct a wider industry Low-Income Forum to address the issue in a more holistic manner. We believe that in the current context of economic hardship and uncertainty and the new SAU, it is imperative that this is organised promptly and as soon as possible so that low-income consumers do not fall through the cracks and opt out of higher quality services altogether, believing that mobile services are sufficient.

Outages

Outages is an area that further highlights the poor communication that currently exists between NBN Co and RSPs and we welcome NBN Co's commitment to improving issues related to outages through an additional working group. Again, we request that this be organised promptly and as soon as possible.

CONCLUSION

Once again, IAA appreciates the opportunity to contribute to the discussion on proposed changes to NBN Co's SAU. On the whole, the proposals seem to be much more acceptable than the March SAU, and is a good step forward for the industry. IAA is committed and sincerely looks forward to collaborating with the various stakeholders in this area to ensure an SAU that will be fit-for-purpose, and offer improvements to the internet industry in Australia.

ABOUT THE INTERNET ASSOCIATION OF AUSTRALIA

The Internet Association of Australia (IAA) is a member-based association representing the Internet community. Founded in 1995, as the Western Australian Internet Association (WAIA), the Association changed its name in early 2016 to better reflect our national membership and growth.

Our members comprise industry professionals, corporations, and affiliate organisations. IAA provides a range of services and resources for members and supports the development of the Internet industry both within Australia and internationally. Providing technical services as well as social and professional development events, IAA aims to provide services and resources that our members need.

IX-Australia is a service provided by the Internet Association of Australia to Corporate and Affiliate members. It is the longest running carrier neutral Internet Exchange in Australia. Spanning six states and territories, IAA operates over 30 points of presence and operates the New Zealand Internet Exchange on behalf of NZIX Inc in New Zealand.

IAA is also a licenced telecommunications carrier, and operates on a not-for-profit basis.

Yours faithfully,

Narelle Clark
Chief Executive Officer
Internet Association of Australia