

28 March 2025

To the Australian Competition and Consumer Commission

By email: [superfastbroadbandinquiry@accc.gov.au](mailto:superfastbroadbandinquiry@accc.gov.au)

**RE: Public inquiry into whether to vary the superfast broadband access service access determination – Discussion Paper**

The Internet Association of Australia Ltd (**IAA**) thanks the Australian Competition and Consumer Commission (**ACCC**) for the opportunity to respond to the ACCC's public inquiry into whether to vary the superfast broadband access service (**SBAS**) access determination (**Inquiry**).

IAA is a member-based association representing Australia's internet community. Our membership is largely comprised of small to medium sized internet service providers, many of whom are also retail service providers (**RSPs**) on the SBAS network. Our response is therefore primarily in representation of these members. However, as a not-for-profit association, we are also interested in the broader public good of the internet, and therefore the underlying telecommunications network and infrastructure, as well as the regulatory regimes that support fair and efficient access to the Internet.

We understand that the Inquiry has commenced as a result of the binding rules of conduct (**BROC**) that the ACCC imposed on the Unity Group Pty Ltd, Opticomm Pty Ltd and their related bodies corporate (**Unity Group**) in December 2024. We further understand that the ACCC is now considering whether the terms and conditions set out in the BROC for the Unity Group should be applied to SBAS access providers more generally under the SBAS access determination.

In general, we support the ACCC's consideration to include additional terms to the SBAS access determination regarding the locations and characteristics of the points of interconnect (**POI**) to prevent SBAS access providers from unfairly manipulating interconnection arrangements to undermine the ability of SBAS access seekers from accessing regulated prices as per the SBAS access determination. However, we also recognise the need to ensure that these proposed additional terms do not unnecessarily impose burdens on SBAS access providers that have genuine reasons for interconnection arrangements, such arrangements that are in the long-term interests of end-users (**LTIE**) to maintain.

We also use this opportunity to raise other issues relating to SBAS access that should be addressed by the ACCC's Inquiry, which we consider may also be relevant to the ACCC's impending public inquiry to review its declaration of the SBAS as a declared service under subsection 152AL(3) of the *Competition and Consumer Act 2010* (CCA).

***Question 1: Should additional regulated access terms be included in the SBAS access determination regarding the locations and characteristics of the points of interconnect? If so, what additional access terms do you consider should be included?***

***Question 3: Who should be required to comply with any such regulated access terms? Should they be limited to particular providers or by way of criteria?***

In general, we consider it appropriate to include additional terms to the SBAS access determination regarding the locations and characteristics of the POI to prevent SBAS access providers from unfairly manipulating interconnection arrangements to circumvent regulated pricing established under the SBAS access determination. We further consider the additional terms set out in the BROCC in relation to interconnection as being appropriate to include under the SBAS access determination to apply to SBAS access providers at large.

However, we also believe that these additional terms should not apply to a limited number of SBAS access providers on the basis that there may be genuine and reasonable reasons for maintaining interconnection arrangements that do not meet the rules set out in the BROCC. We therefore recommend that the ACCC introduces an exemption mechanism in relation to the proposed interconnection rules where an SBAS access provider may be exempt from the interconnection rules. In determining whether an exemption should be allowed, the ACMA should consider whether exempting the SBAS access provider would:

- promote the LTIE;
- not negatively affect competition in the market; and
- encourage efficient use of the SBAS infrastructure.

***Question 2: Should the SBAS access determination include measures to safeguard against the imposition of unreasonable access terms should access seekers request supply on the regulated terms? If so, what additional measures do you consider should be implemented?***

The priority of access terms as set out by the CCA dictates that terms of an access agreement between the SBAS access provider and access seeker must take priority over the terms and conditions specified in the SBAS access determination. According to member feedback, the power imbalance between SBAS access providers and access seekers makes it difficult for access seekers to practically negotiate supply on the regulated terms. As such, it is necessary that additional measures are introduced to safeguard against the imposition of unreasonable terms that impede access seekers from requesting and receiving supply on the regulated terms.

SBAS access providers should be required to offer access seekers the regulated prices in the first instance, and use those benchmarked prices as the starting point for further negotiations of a unique access agreement. In addition, we consider that rules related to increased transparency may help prevent SBAS access providers from withholding regulated terms and pricing benchmarks.

***Question 4: Are there any issues that are not covered in the discussion paper that you consider relevant to our consideration of potential additional regulated access terms in the SBAS access determination?***

We use this opportunity to again request that the SBAS access determination be expanded to regulate speed tiers above 50/20Mbps. We note that IAA, alongside other industry players noted in the consultation processes in establishing the SBAS access determination, that the limited scope of the SBAS access determination (25/5 Mbps and 50/20Mbps) is not appropriate. Given the increasing consumer demand for higher speed tiers, we consider it appropriate for the ACCC to revisit the

scope of the access determination to cover all residential TC-4 speed tiers, each of which should be benchmarked to the relevant NBN Co pricing.

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Once again, IAA appreciates the opportunity to contribute to the ACCC's public inquiry into whether to vary the SBAS access determination. As the ACCC commences its public review of the SBAS declaration of the SBAS, we look forward to working with the ACCC, other industry entities, consumer groups and other stakeholders to ensure a fit-for-purpose regulatory framework that best serves the telecommunications sector.

## ABOUT THE INTERNET ASSOCIATION OF AUSTRALIA

The Internet Association of Australia (IAA) is a not-for-profit 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.

IAA is also a licenced telecommunications carrier and provides the IX-Australia service to Corporate and Affiliate members on a not-for-profit basis. It is the longest running carrier neutral Internet Exchange in Australia. Spanning seven 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.

Yours faithfully,  
Internet Association of Australia