



18 December 2025

To the Australian Competition and Consumer Commission

By email: superfastbroadbandinquiry@accc.gov.au

RE: Superfast Broadband Access Service Declaration Inquiry Discussion Paper

The Internet Association of Australia Ltd (**IAA**) thanks the Australian Competition and Consumer Commission (**ACCC**) for the opportunity to respond to the consultation on the Superfast Broadband Access Service Declaration Inquiry Discussion Paper (**Discussion Paper**).

IAA is a member-based association representing Australia's Internet community. Our membership is largely comprised of small to medium sized Internet service providers (**ISPs**). However, we preface that our membership comprises both access providers and access seekers of the Superfast Broadband Access Service (**SBAS**) network. As a result, there is likely a diversity of views within our membership on whether the declaration of the SBAS network (**SBAS Declaration**) should be extended and if so, on what terms, and we therefore do not purport to represent a unified member position. Rather, as a not-for-profit association promoting the broader public good of the Internet and Internet industry, our response sets out to present what we consider to be in the best interests of the industry and telecommunications sector more generally.

Overall, IAA recommends the extension of the SBAS Declaration, with variation, to ensure the Declaration is fit-for-purpose in the current and future broadband market. As an important part of the broadband market, it is integral that the SBAS network is being supplied in an open manner that promotes competition, and therefore also the interests of end-users.

RESPONSE TO DISCUSSION PAPER QUESTIONS

- 1. Should the declaration of the SBAS be extended, revoked, varied or allowed to expire? Please provide reasons for your position, including how declaration does/doesn't promote the long-term interests of end-users.**
- 4. Are wireless broadband services (offered over mobile broadband, fixed wireless or satellite) substitutes for fixed-line broadband services and if so, to what extent? Are there capacity or availability constraints that would limit their ability to be an effective substitute for a fixed-line broadband service?**
- 5. Do any legislative or regulatory changes regarding the supply of superfast broadband services since the ACCC's previous declaration inquiry enhance or diminish the need for declaration of the SBAS?**

IAA considers the extension of the SBAS Declaration, with variation, as being necessary to ensure the promotion of the long-term interests of end-users (**LTIE**). We understand that there have been

many developments in the SBAS and broader broadband market since the ACCC's SBAS Declaration Inquiry in 2021 (**2021 Inquiry**) that may give rise to considerations on whether the SBAS Declaration is still necessary in the modern landscape. However, we note that not all these developments have had a positive effect on the LTIE, and we therefore strongly believe continued regulation remains necessary, with variation to ensure the SBAS Declaration reflects and addresses the issues emerging in the current and evolving market.

Competition

As has been recognised by the ACCC in its Discussion Paper, the SBAS market continues to see low competition. The high cost of infrastructure and continued consolidation in the market since the 2021 Inquiry has resulted in monopolistic wholesale supply, which is not in the LTIE. Effective regulation is thus necessary to prevent and mitigate the adverse consequences of low competition in the market such as higher retail prices and reduced service quality for consumers.

Indeed, the issues resulting in the ACCC to make binding rules of conduct (**BROC**) in 2024, and the subsequent variation of the SBAS Access Determination in 2025 highlight the need for regulation in the SBAS market to curtail monopolistic anti-competitive behaviour. Furthermore, the ACCC's intervention indicated the need for more stringent regulatory settings than was then-currently in place. As will be further discussed below, BROC can only be made in respect of a declared service, thereby necessitating the SBAS network to continue to be a declared service for the purposes of the BROC made in 2024 to apply.

Substitute broadband services

In addition, we do not consider the developments in wireless broadband services to negate the need for a strong SBAS regulatory framework. We support and encourage the continued development of other broadband services to further grow the sector and the increased choice being made available to end-users. However, we do not consider these wireless services as complete substitutes to fixed-line broadband. There are capacity and other limitations to wireless services that can greatly affect service reliability. As such, while wireless services should be recognised as a supplement, we do not consider the increased availability of these services to be a true substitute for fixed-line broadband that would justify revoking or allowing the expiry (without replacement) of the SBAS Declaration.

Regulatory Framework

The SBAS Declaration is a key regulatory instrument that is a part of the overarching legislative framework in regulating non-NBN superfast broadband networks so that the SBAS is supplied to access seekers on a non-discriminatory basis.

Importantly, under Part XIC of the *Competition and Consumer Act 2010*, the declaration of a service is foundational to the standard access obligations applying to, and for, a Final Access Determination (**FAD**) to be made in respect of the SBAS network. Similarly, section 142BD(3)(d) of the *Telecommunications Act 1997* (**the Act**) provides that a carriage service cannot be specified as a designated service for the purposes of Part 8 of the Act unless there is a declaration in force relating to that service. While the Statutory Infrastructure Provider regime exists independently of the SBAS Declaration, the SBAS Declaration is also complementary to the regulation regulating the supply of the SIP services.

Thus, the SBAS Declaration is integral to the operation and enforcement of the regulatory settings that constrain discriminatory behaviour and anti-competitive conduct in the broadband market. We therefore raise our concern that the revocation or expiry of the SBAS Declaration would cause issues in relation to the overarching regulatory framework and other regulation relating to the fixed-line broadband market. Thus, we consider the extension of the SBAS Declaration as being necessary, though with variations as outlined below.

7. *If the service continues to be declared, is the service description still appropriate? If not, what needs to change? And when should the declaration expire?*

In consideration of the issues presented in the Discussion Paper, we recommend the below updates to the SBAS Service Description to improve clarity and ensure the SBAS Declaration reflects market realities to ensure effective regulation of the SBAS network.

Clarification of Layer 2 Service

IAA is concerned that providers may be circumventing wholesale access regulatory obligations by offering Layer 3 bundled, white-label services or embedded network models. We consider it may be necessary to clarify in the Service Description that the SBAS is a Layer 2 bitstream service, and provision of Layer 3 (or higher) services or embedded networks, where access to the Layer 2 service is technically feasible, is not sufficient for the purposes of satisfying a provider's obligations to provide wholesale access. We consider this issue may be further regulated or regulated by alternative mechanisms such as the FAD or by way of a guidance note.

Clarification of sufficient backhaul capacity

We note that the current Service Description does not explicitly require SBAS access providers to ensure they have sufficient backhaul capacity to deliver the service to access seekers in a usable manner. We would support variation to the Service Description to address transmission accountability and service usability by clarifying the expectation that an SBAS access provider is responsible for ensuring the SBAS is being supplied in a manner that enables access seekers to supply retail services to end-users, irrespective of any third-party backhaul arrangements the access provider may have. Further detailed requirements relating to the technical aspects of backhaul capacity, redundancy and fault management can be regulated further via the FAD following further consultation on the issue.

Removal of obsolete elements

We support the removal of obsolete elements of the SBAS Service Description, including paragraph (iii) of the service exclusions which references the HFC network that has now been transferred to NBN Co.

Term Duration

We consider the extension of the SBAS Declaration (with the above variations) for a term of four-years would be reasonable to align the SBAS Declaration with the expiry date of the *Telecommunications (Superfast Broadband Network Class Exemption) Determination 2025*.

Once again, IAA appreciates the opportunity to respond to the ACCC's consultation on the Superfast Broadband Access Service Declaration Inquiry Discussion Paper. We reiterate that the SBAS network

should be regulated in a manner that promotes competition which we believe to be fundamental to the LTIE, and the SBAS Declaration is a critical piece of that overarching regulatory framework. To that end, IAA looks forward to continued engagement with the ACCC, industry, consumers and other stakeholders to support the continued operation of a fit-for-purpose SBAS Declaration.

ABOUT THE INTERNET ASSOCIATION OF AUSTRALIA

The Internet Association of Australia Ltd (**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 regularly engages with government and regulatory bodies on policy matters affecting the Internet industry. In particular, our advocacy efforts represent the small to medium sized internet service providers in Australia who are often disproportionately disadvantaged by law reform affecting the telecommunications sector. Our public policy work is guided by the following principles:

We stand for an internet for the common good

We stand for an open internet platform

We stand for measured, effective and practical regulation

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.