



# **Executive Summary: Response to Consultation Paper 2**

2 May 2025

## Recommendations

### This submission recommends NBN Co:

- Articulate a clear and comprehensive strategy for advancing fibre migration.
- Genuinely engage with consumers and consumer advocacy groups on expenditure forecasts.
- Streamline and revise service standards to promote their efficacy and improve compliance.
- Apply uniform service standards regardless of geographic location.
- Overhaul the rebate system to ensure complete passthrough to consumers.
- Engage with consumer advocacy groups about upgrades to satellite services.

## About this submission

The Australian Communications Consumer Action Network (ACCAN) is pleased to provide this submission on NBN Co Ltd's (NBN Co) 2025 Replacement Module Application (RMA) Consultation Paper 2 (the Paper) as part of NBN Co's compliance under the economic regulation regime established by the August 2023 Variation of the Special Access Undertaking (SAU).

ACCAN received an Australian Government grant to represent consumer voices and interests in the development of NBN Co's expenditure proposals and service standards to ensure they meet the needs of Australian consumers.

ACCAN is Australia's peak communication consumer organisation. The operation of ACCAN is made possible by funding provided by the Commonwealth of Australia under section 593 of the Telecommunications Act 1997. This funding is recovered from charges on telecommunications carriers. ACCAN is committed to reconciliation that acknowledges Australia's past and values the unique culture and heritage of Aboriginal and Torres Strait Islander peoples.

ACCAN thanks NBN Co for the opportunity to provide a consumer voice into the Paper. Should you wish to discuss any of these matters further, please contact [audrey.reoch@accan.org.au](mailto:audrey.reoch@accan.org.au).

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ACCAN is the peak national consumer organisation advocating for fair communications and digital services.

# Introduction

NBN Co's Consultation Paper 2 covers two key work programs, representing both investment in its future potential, as well as shoring up its existing network. It is the second of two public Consultation Papers that NBN Co has released as part of its RMA process and is presents as the last opportunity for public consultation before NBN Co submits its proposal by 2 July 2025.

At face value, ACCAN considers that many aspects of NBN Co's work proposals in fibre migration and service standards appear reasonable and beneficial for consumers. The advancement of fibre upgrades is critical to the consumer experience, and the cost of services faced by consumers. Benchmark Service Standards set minimum service levels to ensure that consumers receive the NBN services that they are paying for, and continued NBN Co maintenance and uplift is essential to ensure that Australians can reliably access government, health, economic and educational services.

However, ACCAN considers that there are three substantial gaps in the paper which NBN Co needs to address in order to meet the long-term interest of end-users (LTIE):

1. NBN Co has provided limited expenditure forecasts, with no business case nor demand forecast for the proposed upgrades to fibre.
2. NBN Co has not provided sufficient detail on the upgrades to service standards, with the proposed upgrades doing little to address poorer service standards for Regional, Rural and Remote (RRR) consumers, and retaining an ineffective rebate system.
3. NBN Co has not yet undertaken engagement on the future of Satellite Services.

ACCAN recommends that NBN Co in its RMA set out the proposed approach in substantially greater detail. We recommend that it comprehensively articulate how NBN Co expenditure is:

- Prudent and efficient.
- Subject to a rigorous investment governance framework.
- Shaped by community and consumer engagement.
- Addressing the concerns of end-users.
- Improves the LTIE.

Based on the information provided to date, ACCAN is unable to determine whether NBN Co's expenditure reflects value for money for consumers sufficient to justify the likely price increases that these work programs will generate. We recommend NBN Co undertake significant work, including with industry and consumer advocacy stakeholders, to ensure that a compliant RMA is submitted by 2 July 2025.

# Fibre Migration

## **ACCAN supports fibre migration in-principle, but NBN Co must substantiate its proposals**

The fibre upgrade program represents a significant portion of NBN Co's proposed capital expenditure. At \$2.5 billion, it is roughly 28% of the revised \$8.8 billion capex proposed over the period FY26-27 – FY28-29.[1] An investment of this scale and scope must be subjected to a rigorous investment governance framework that considers the prudence and efficiency of investments. The benefits of fibre migration, including reduced costs, service performance and uplift should be articulated in clear, monetised terms and assessed against the price impact for consumers.

NBN Co needs to provide the level of detail expected in a comprehensive business case, where expenditure is underpinned by an investment governance framework and linked to demand forecasts and consumer interest. This would ensure that the fibre migration program is aligned with the financial and operational parameters outlined in the SAU,[2] balancing investment with demand growth and cost constraints.

To date, NBN Co has undertaken limited engagement with consumer advocacy groups regarding the trade-off between higher prices and improved fibre services and consumer's willingness to pay for these potential services.[3] This lack of engagement suggests that NBN Co still needs to develop forecasts for consumer demand.

Despite ACCAN's in-principle support for fibre migration, we are unpersuaded by NBN Co's assertion that households require fibre services because of an immense proliferation of devices per households,[4] or because of purportedly imminent take-up of emerging technology which is reliant upon gigabit-level services.[5] Expenditure proposals require detailed costings and examination of economic trade-offs to justify the increase in capital expenditure that these program require. ACCAN requests that NBN Co provide its demand forecasting data as part of its consultation process.

Until such data is provided, ACCAN recommends NBN Co adopt a demand-driven approach to investment consistent with an impactor-pays model of cost recovery, to ensure that investment decisions and cost recovery are tied directly to demand from consumers for high-speed services.

Finally, the implementation of the program should be focused on the delivery of service uplift in a manner that is cost-effective and beneficial for consumers. Accordingly, ACCAN recommends NBN Co prioritise fibre investment in RRR areas, where consumers have limited access to redundant technologies, noting RRR investments will likely yield greater cost-benefits and faster up-take.

[1] NBN Co, 'NBN 2025 Replacement Module Application Consultation Paper Two' (Consultation Paper, February 2025) 68–69.

[2] NBN Co Special Access Undertaking variation (August 2023) Clause 5.9(c)(i) and Clause 2G.2.5(c)(iii).

[3] NBN Co Special Access Undertaking variation (August 2023) Clauses 5.7(a), 5.7(b) and 2G.2.5(d)(iii).

[4] NBN Co, 'NBN 2025 Replacement Module Application Consultation Paper Two' (Consultation Paper, February 2025) 9.

[5] Australian Communications Consumer Action Network, 'ACCAN's Submission to NBN Co's Consultation Paper 1' (Submission, 22 January 2025) 16-19. <<https://accan.org.au/accans-work/submissions/2399-accan-s-submission-to-nbn-co-s-consultation-paper-1>>.

# Benchmark Service Standards

Benchmark Service Standards set the minimum level of service quality that consumers and small businesses should expect from NBN Co services. ACCAN notes that the proposed enhancements to the Service Standards within the paper have been presented without relevant costings, noting that every enhancement represents a potential increase in NBN Co's capex and opex. In the absence of the forecasted expenditure, ACCAN is unable to determine whether the scale and scope of the investments in service standards addresses the relevant needs of consumers.

Costings notwithstanding, ACCAN considers that there are three immediate priorities for NBN Co to consider in enhancements to service standards:

- The incorporation of new standards to improve network performance.
- The adjustment of targets for RRR areas to drive higher quality and compliance.
- The overhaul of the rebate framework to adequately compensate consumers.

## **Incorporating stronger technical performance standards would universally enhance services**

ACCAN recommends that NBN Co incorporate service standards for key network performance metrics such as latency, jitter, and packet loss. This would improve transparency around NBN Co's network performance and utilisation management, providing greater insight into where performance enhancing investments could be made.

## **More stringent standards are essential to support RRR areas which are uniquely reliant on the NBN**

ACCAN considers that the proposed benchmark service standards for RRR services are inadequate and reinforce a digital divide between urban and RRR consumers. The existing service standards framework, by design, allows for NBN Co to deliver a lower quality of service to customers in RRR areas while still meeting its obligations under the framework. The proposed service standards risk leaving consumers in RRR areas without effective communications access for extended periods.[6]

Given that the material risk of harm caused by a loss of communications services is disproportionately higher for RRR consumers, and the lack of reasonable substitutions compared to urban consumers, ACCAN urgently recommends NBN Co consider a more uniform framework for service standards.

[6] For example, on some parts of NBN Co's network, a consumer seeking a new fibre network connection in an 'isolated area,' NBN Co is only required to provide this within 35 days to meet its service standard target. This contrasts with a consumer in an urban or major/minor rural area, where the expectation is 9 business days for urban areas and 14 for major/minor rural areas. See NBN Co, August 2023 SAU variation, Module 4, Schedule 4A, 11.1, Attachment b)i).

## **NBN Co's rebate framework, and the role of RSPs, does not adequately compensate consumers**

There is an urgent need to revisit NBN Co's system of rebates for service standards, which have created perverse incentives that discourage effective service delivery. ACCAN notes that the current rebate framework does not provide a sound framework for compensation, as Retail Service Providers (RSPs) are not required in all instances to provide compensation to consumers for breaches of service levels. This weakens the economic incentive for RSPs to push NBN Co to resolve service faults, given that rebates paid to RSPs are not passed onto the end-user.

ACCAN recommends that NBN Co make significant amendments to the current rebate framework, aligning it instead with other domestic sectors<sup>[7]</sup> and international standards,<sup>[8]</sup> which require rebates to be directly provided to end-users who experience a breach of service. In ACCAN's view, the cost of breaches to service standards should lie with NBN Co and be reflected in a reduction to allowable revenue. This would be reflected in either a reduction in the equity return received by NBN Co, or an equivalent reduction in the value of Initial Cost Recovery Account (ICRA).

[7] Australian Energy Regulator, 'Review of electricity transmission service standards incentive schemes' (Web Site, 3 April 2025) <<https://www.aer.gov.au/industry/registers/resources/reviews/review-electricity-transmission-service-standards-incentive-schemes>>.

[8] Infocomm Media Development Authority, 'Qos Standards On Netlink Trust's Provisioning Of Residential End-User Connection Service' (Report, n.d.) 1. <[https://www.imda.gov.sg/-/media/imda/files/regulation-licensing-and-consultations/licensing/licenses/compliance-to-ida-standards/qosframework\\_nltservertimeframe-2.pdf](https://www.imda.gov.sg/-/media/imda/files/regulation-licensing-and-consultations/licensing/licenses/compliance-to-ida-standards/qosframework_nltservertimeframe-2.pdf)>; National Broadband Ireland, 'Wholesale Bitstream & VUA Products Service Level Agreement', (Report, August 2022) 13–16 <<https://nbi.ie/service-provider-portal/>>.

# Satellite Services

## **The lack of consultation on Satellite Services is a significant gap in this regulatory reset process**

The RMA process has featured little discussion on the future of satellites or the potential incorporation of LEOSat services into the nbn. Given the expected retirement of the existing Sky Muster assets by the early 2030s and Telstra's Universal Service Obligation (USO) contract by 2032, the ostensible lack of plans for the future of Satellite Services is a significant concern, noting its immense importance for Australians living in RRR areas, including remote First Nations communities.

This gap in consultation is not supported by NBN Co's acknowledgement within the paper that 'plans for the future of our Sky Muster satellite services are not yet sufficiently developed to consult on, and nbn will share further developments as they are progressed.'<sup>[9]</sup> Additionally, ACCAN considers NBN Co's lack of consultation on the potential of a contract with Amazon's Kuiper network is not in keeping with the SAU,<sup>[10]</sup> noting NBN Co's requirement to consult with consumers and consumer advocacy groups on expenditure forecasts.<sup>[11]</sup> ACCAN recommends NBN Co engage with consumer preferences on satellite services to better understand consumers' priorities over key issues such as affordability and reliability, which should inform their decision for how to provide LEOSat services.

ACCAN considers the lack of consultation on satellite services, as well as the limited scale of engagement to date, to be more broadly reflective of the truncated timeline that NBN Co has set itself to fulfil its obligations under this regulatory reset process. This has seen NBN Co make key business decisions outside the scope of the SAU and without appropriate consultation, such as the announcement of 'speed leadership' plans in early 2024.<sup>[12]</sup> Key business decisions such as these should go through a formal engagement process to ensure they are in the interests of end-users.

[9] NBN Co, 'NBN 2025 Replacement Module Application Consultation Paper Two' (Consultation Paper, February 2025) 8.

[10] Ronald Mizen, 'NBN Co set to choose Amazon over Musk's Starlink for satellite service', Australian Financial Review (online, 3 March 2025) <<https://www.afr.com/politics/federal/nbn-co-set-to-choose-amazon-over-musk-s-starlink-for-satellite-service-20250303-p5lghc>>.

[11] NBN Co, 'NBN 2025 Replacement Module Application Consultation Paper Two' (Consultation Paper, February 2025) 9.

[12] Grahame Lynch, 'TPG Telecom says NBN changes remove SAU certainty', Communications Day (online, 6 March 2024).

# Conclusion

At face value, ACCAN considers that many aspects of NBN Co's work proposals in fibre migration and service standards appear reasonable. However, the information provided in the paper does not provide sufficient evidence for ACCAN to support the proposed approach. ACCAN is concerned if NBN Co does not substantiate the gaps in information highlighted in the paper, they face a real likelihood of regulatory failure, which would be undesirable for all stakeholders.

NBN Co needs to provide significantly more information to assist consumer advocates and the Australian Competition and Consumer Commission in determining whether the expenditure proposals reflect value for money for consumers sufficient to justify the likely price increases that this expenditure will generate. ACCAN recommends NBN Co use the remaining time available until their submission due date of 2 July 2025 to better substantiate their RMA proposal to this end.

## **ACCAN's recommendations to better address the needs of consumers**

ACCAN proposes six recommendations to improve the accountability and efficacy of NBN Co's expenditure and work plan:

1. Articulate a clear and comprehensive strategy for advancing fibre migration consistent with the consumer interest and the terms of the SAU.
2. Genuinely engage with consumers and consumer advocacy groups on proposed expenditure forecasts and how they promote consumer benefits and value for money.
3. Streamline and revise service standards to promote their efficacy and improve compliance, especially in removing unnecessary granularity or duplication of reporting.
4. Apply uniform service standards regardless of geographic location, ensuring that RRR consumers benefit from the same quality of service as consumers in metro areas.
5. Overhaul the rebate system to ensure complete passthrough to consumers – preventing the rebate system from acting as a subsidy to retailers.
6. Engage with consumer advocacy groups about upgrades to satellite services to ensure that this vital form of broadband technology receives appropriate community consultation.

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