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Attention: Telecommunications Reform  
Broadband Implementation Branch and Infrastructure and Access Branch  
Department of Communications and the Arts  
GPO Box 2154  
Canberra ACT 2601

Via email: [telco.reform@communications.gov.au](mailto:telco.reform@communications.gov.au)

**Submission to draft *Telecommunications Legislation Amendment (Competition and Consumer) Bill 2017* and *Telecommunications (Regional Broadband Scheme) Charge Bill 2017***

Vocus Group Limited (**Vocus**) appreciates the opportunity to provide input into the consultation process for the draft *Telecommunications Legislation Amendment (Competition and Consumer) Bill 2017 (CC Bill)* and *Telecommunications (Regional Broadband Scheme) Charge Bill 2017 (RBS Bill)*. We acknowledge that providing practical working arrangements for regional broadband in Australia remains an enduring policy, regulatory and commercial challenge for the industry.

**Parts 7 and 8 of the *Telecommunications Act 1997***

Vocus generally supports the amendments to the level playing field rules (Parts 7 and 8 of the *Telecommunications Act 1997*) proposed in the CC Bill. However, the grandfathering arrangements proposed in the CC Bill are complex and potentially unwieldy. In Vocus' view this will be further complicated by the class exemption which excludes operators with fewer than 2,000 retail residential customers. Residential consumers and telecommunication service providers need a level of transparency in order to understand who the current infrastructure provider is for any residential premises across Australia (i.e. service provision, churn and the changes associated with property transfer). Vocus proposes that a public register be established so that both residential consumers and service providers can determine the presence of an alternative infrastructure provider that is not the NBN.

**Regional Broadband Scheme and the levy**

Vocus does not support the implementation of the Regional Broadband Scheme (**Scheme**) particularly the introduction of the levy proposed in the RBS Bill and how it is applied. The fundamental premise of the Scheme is to create an industry levy akin to a "tax" on "nbn-comparable" technologies. Unfortunately, the RBS Bill seems to be borne of a fixed line thinking that Government has long since moved away from, to a multi-technology mix policy that advocates that, fast copper, fixed wireless and satellite services are an appropriate substitute for fibre delivered services as long as they are 25mbps and above. Vocus, like other

telecommunications service providers, have expanded fibre infrastructure network across Australia in order to provide fast and reliable services that do not compete with the NBN at significant capital investment. The impost of a new tax is hardly timely for fixed line infrastructure network providers given investment decisions, taken in some cases many years ago, and such a levy is not apparently grandfathered in any way.

The RBS Bill would be greatly enhanced by redefining the definition of **chargeable service associated with a local access line** to have the same meaning as **superfast carriage services**. This would ensure that:

1. there is a single definition consistent with the level playing field rules proposed in amendments to Parts 7 and 8 proposed by the CC Bill and the levy is equitably applied. Vocus submits that this change should be implemented so that all superfast carriage services provided to large and small business are exempt from the application of the levy; and
2. discrete and specialised fixed wire products not substitutable for the NBN would not caught by the application of the levy. Such products may include:
  - a. dark fibre running between two business premises. NBN does not sell dark fibre in this manner;
  - b. leased high capacity services between data centres and business premises. These services provide direct connection between two points without traversing an NBN POI and are not services that NBN provides; and
  - c. backhaul to mobile base stations. NBN has flagged plans to provide a product in this space in competition with existing backhaul providers, however this has been widely identified as scope creep and outside of the original NBN mandate. Providers of these services should not have to pay a levy to cross subsidise NBN to compete against them.

If the charge base for the levy is too small, Vocus suggests a less discriminatory broadening of the service base for the levy should be considered to reduce the impost. The Explanatory Notes for the RBS Bill highlights that the provisions are not intended to capture certain technologies such as mobile broadband services, fixed wireless broadband services and satellite broadband services. However technical advancements have enabled these technologies to be capable of providing local access lines with download speeds of 25mbps or more. There are currently a range of products being launched by telecommunication service providers using mobile, fixed wireless services and satellite services to provide superfast broadband services. For example:

- BigAir uses fixed wireless technology to “*Connect better than ever before with Australia’s leading Fixed Wireless Ethernet network for business. Our network delivers carrier-grade, high-availability, symmetrical broadband performance, with speeds up to 1Gbps and the agility of the air.*”<sup>1</sup>; and

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<sup>1</sup> <http://www.bigair.com.au/fixed-wireless-ethernet>

- Telstra have released new products on its 4G network intended to be a substitute for NBN products on the grounds of convenience.<sup>2</sup> Furthermore, in September 2016 Telstra were reported to trial 5G mobile technology that saw total download speeds [to two mobiles] of greater than 20 gigabits per second [Gbps] as in the near future 5G mobile services in Australia will be quite capable of delivering 25mbps or more.<sup>3</sup>

It should be noted that NBN itself publicizes the benefits of satellite technology being able to deliver “... *wholesale speed options*” of “...12Mbps download with a 1Mbps upload, or 25Mbps download with a 5Mbps upload”<sup>4</sup>;

In Vocus’ view it is appropriate that the RBS Bill is broadened so that the levy is applied to all technologies that are being used as substitutes for NBN services such as mobile, fixed wireless and satellite broadband services rather than exclusively focusing on fixed line services, many of which are non-substitutable for NBN services. In a highly competitive industry, the RBS Bill creates a competitive disadvantage for telecommunication service providers like Vocus who use fibre technology capable of providing 25Mbps services against those providers who use mobile, fixed wireless and satellite broadband services as NBN substitutes. The large \$7.09 per month levy applied to each fixed line wholesale service is a highly significant component of the total price and impost of the levy could be substantially reduced if broadened to include more services capable of delivering 25mbps and above.

It is unclear from the RBS Bill Explanatory Notes as to why mobile, fixed wireless and satellite broadband services have been specifically excluded from the RBS Bill’s application despite being to substitute NBN services. Particularly as mobile operators such as Telstra and Optus, who enjoy a disproportionate share of total industry revenues, are already marketing fixed wireless services using their 4G networks<sup>5</sup>. In Vocus’ view, the RBS Bill in its current form imposes a tax that is a fixed line centric penalty and unfairly favours the mobile based nbn competing infrastructure.

### **Administrative cost of the Scheme**

Vocus submits that the RBS Bill provides inadequate compensation for the administrative costs component of the Scheme. Vocus estimates that it operates up to {redaction of conflict of information content} services that may be captured by the RBS levy. No explanation has been offered on how the administrative cost rebate amount has been calculated. Vocus is likely to incur increased compliance costs in administering the levy that are unlikely to be covered by the rebate amount.

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<sup>2</sup> [https://www.itnews.com.au/news/telstra-to-boost-cbd-4g-speeds-to-1gbps-449349?eid=1&edate=20170201&utm\\_source=20170201\\_am&utm\\_medium=newsletter&utm\\_campaign=daily\\_newsletter](https://www.itnews.com.au/news/telstra-to-boost-cbd-4g-speeds-to-1gbps-449349?eid=1&edate=20170201&utm_source=20170201_am&utm_medium=newsletter&utm_campaign=daily_newsletter)

<sup>3</sup> <http://www.smh.com.au/business/media-and-marketing/telstra-trials-5g-mobile-network-the-next-quantum-leap-in-technology-20160920-grkhh7.html>

<sup>4</sup> <http://www.nbnco.com.au/connect-home-or-business/information-for-home/satellite.html>

<sup>5</sup> See Optus’ Home Wireless Broadband Service up to 12/1 Mbps download/upload in 2300 MHz areas <http://www.optus.com.au/shop/broadband/home-wireless-broadband/plans>, <https://www.cnet.com/au/news/optus-home-wireless-broadband-offers-biggest-wireless-data-inclusion-ever/>

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