



SENATOR THE HON MITCH FIFIELD
MINISTER FOR COMMUNICATIONS
MINISTER FOR THE ARTS
MANAGER OF GOVERNMENT BUSINESS IN THE SENATE

Ms Christine McDonald
Secretary
Senate Standing Committee on Environment and Communications
PO Box 6100
Parliament House
CANBERRA ACT 2600

nbn answers to Questions on Notice 298 and 359

Christine
Dear Secretary

I refer to your letter of 28 September 2017 to Mr Bill Morrow, Chief Executive Officer of NBN Co Limited (nbn), in which you reiterated nbn is making a claim under Procedural Order No. 10 or No. 11, it must be made in accordance with the terms of the relevant order, including the provision of a statement of the specific harm to public or commercial interest that would ensue from the disclosure of the information.

I understand that nbn is making this claim in relation to a request from the Committee to provide information about the individual value of 20 commissioned research contracts.

I have attached a letter from Mr Bill Morrow, in which the company provides a statement of the specific harm to the company's commercial interests which would ensue from the disclosure of the value of each of the 20 specified research contracts.

Yours sincerely

MITCH FIFIELD

11/10/17

10 October 2017

Senator the Hon Mitch Fifield
Minister for Communications
Parliament House
CANBERRA ACT 2600

Dear Minister

Commercially sensitive information in QoNs

I refer to the letters from the Secretary of the Senate Standing Committee on Environment and Communications (the Committee) to **nbn**, dated 28 September 2017. The Committee has requested the provision of a statement from you of the specific harm to public or commercial interest that would ensue from a disclosure of information in relation to questions on notice.

Questions on Notice 298 and 359 from the spillover Budget Estimates hearing on 15 June 2017 relate to the individual values of **nbn**-commissioned research and reports. In response to Question on Notice 298, **nbn** provided the total cost of published research in support of consumer campaigns for FY17, and noted in the response that the cost of individual studies is commercially sensitive. The Committee requested a claim for each of the 20 pieces of **nbn**-commissioned research, which are in **Attachment A**.

It is inappropriate for **nbn** to disclose the costs of these individual studies for three reasons. Firstly, the disclosure of individual contract values will influence the prices tendered for future research and will affect **nbn**'s ability to ensure value for money by undermining the company's position in contract negotiations. Disclosure would likely result in increased costs to **nbn**, and as a publicly-funded entity this is not in the public interest.

Secondly, **nbn** has either signed non-disclosure agreements with all of the suppliers or has a contract (master services agreement or MSA) with the supplier that has a confidentiality commitment from **nbn**. Disclosing the specific value of the individual contracts would be a breach of these contractual commitments, expose **nbn** to a potential claim for damages, damage the relationship with these providers and impact negatively on **nbn**'s reputation.

Thirdly, disclosing this information could have a detrimental impact on the research companies themselves as their cost structures would be revealed.

I trust this statement highlights the harm that would occur both to the taxpayer and to third parties if **nbn** were to disclose confidential information, and I appreciate your assistance in providing this information to the Committee.



Yours sincerely

Bill Morrow
Chief Executive Officer

Copied to:

Dr Ziggy Switkowski, AO, Chairman, nbn co limited
Mr Stephen Rue, Chief Financial Officer, nbn co limited
Ms Karina Keisler, Chief Corporate Affairs Officer, nbn co limited
Mike Mrdak, AO, Secretary, Department of Communications and the Arts
Ms Rosemary Huxtable, PSM, Secretary, Department of Finance



Attachment A

Report	Reason for commercial harm to nbn
1. The nbn Silver Economy report	Breach of confidentiality provision in MSA/and/or breach of non-disclosure agreement with provider
2. The nbn S-ME Time report	Breach of confidentiality provision in MSA/and/or breach of non-disclosure agreement with provider
3. The nbn Side Hustle report	Breach of confidentiality provision in MSA/and/or breach of non-disclosure agreement with provider
4. The nbn Ready Homes report	Breach of confidentiality provision in MSA/and/or breach of non-disclosure agreement with provider
5. The nbn Net-Fit report	Breach of confidentiality provision in MSA/and/or breach of non-disclosure agreement with provider
6. The nbn Digital Health at Home report	Breach of confidentiality provision in MSA/and/or breach of non-disclosure agreement with provider
7. The nbn GranTechie Report	Breach of confidentiality provision in MSA/and/or breach of non-disclosure agreement with provider
8. The nbn Season of Connectivity Report	Breach of confidentiality provision in MSA/and/or breach of non-disclosure agreement with provider
9. The Ovum report on regional connectivity and fixed wireless	Breach of confidentiality provision in MSA/and/or breach of non-disclosure agreement with provider
10. The nbn Digital Parenting Report 2017	Breach of confidentiality provision in MSA/and/or breach of non-disclosure agreement with provider
11. The nbn Digital Dream Report	Breach of confidentiality provision in MSA/and/or breach of non-disclosure agreement with provider
12. Aussie App-etite: connected devices building the future home	Breach of confidentiality provision in MSA/and/or breach of non-disclosure agreement with provider
13. Internet Uninterrupted 2016: Australian Households of the Connected Future	Breach of confidentiality provision in MSA/and/or breach of non-disclosure agreement with provider
14. nbn: Future of sport Report	Breach of confidentiality provision in MSA/and/or breach of non-disclosure agreement with provider
15. nbn Broadband Index	Breach of confidentiality provision in MSA/and/or breach of non-disclosure agreement with provider
16. Going Glocal	Breach of confidentiality provision in MSA/and/or breach of non-disclosure agreement with provider
17. Gen nbn: 2020 and beyond	Breach of confidentiality provision in MSA/and/or breach of non-disclosure agreement with provider
18. Towards a super connected Australia	Breach of confidentiality provision in MSA/and/or breach of non-disclosure agreement with provider
19. SME cloud-based services: overseas successes & Australian opportunities	Breach of confidentiality provision in MSA/and/or breach of non-disclosure agreement with provider



Report	Reason for commercial harm to nbn
20. Super connected lifestyle locations	Breach of confidentiality provision in MSA/and/or breach of non-disclosure agreement with provider