



14 July 2017

Committee Secretary
Senate Standing Committee on Environment and Communications
PO Box 6100
Parliament House
Canberra ACT 2600

By email to: ec.sen@aph.gov.au

submission re Telecommunications Legislation Amendment (Competition and Consumer) Bill 2017 and Telecommunications (Regional and Broadband Scheme) Charge Bill 2017

Superloop Limited (**Superloop**) thanks the Senate Standing Committee on Environment and Communications for the opportunity to respond to the Telecommunications Legislation Amendment (Competition and Consumer) Bill 2017 and Telecommunications (Regional and Broadband Scheme) Charge Bill 2017 (**RBS Bill**).

About Superloop

Superloop is a leading independent provider of digital services in the Asia Pacific region. The Superloop Group owns and operates over 590 km of carrier-grade metro fibre networks in Australia, Singapore and Hong Kong, connecting more than 250 of the region's key data centres and commercial buildings.

The Group also operates businesses including BigAir Group, APEXNetworks, CINENET Systems and SubPartners.

BigAir Group provides a diverse range of ICT services to small-to-medium enterprises, government, retail, mining and education customers across Australia. It offers network infrastructure, Cloud-based solutions and managed services, including communications and WiFi into student campuses. BigAir owns an advanced, large-scale fixed wireless broadband network, including more than 300 wireless PoPs, delivering business-grade services at speeds up to 1Gbps.

Superloop recently acquired submarine cable infrastructure provider, SubPartners, expanding its trans-Australian and international capacity. The acquisition will give the Company ownership of international submarine cable capacity as a member of the INDIGO consortium which is constructing the INDIGO West cable system (Singapore to Perth) and the INDIGO Central cable system (Perth to Sydney).

Amendments to Parts 7 to 9 of the Telecommunications Act

Superloop supports the amendments that will remove the restriction on the supply of services



to small business customers. The definition of small business, which refers to the definition in the Fair Work Act being an employer of fewer than 15 people, was flawed. There are many successful, sophisticated business entities within Australia that employ less than 15 people – Superloop itself had fewer than 15 employees at the time it listed on the Australian Stock Exchange with a market capitalization of approximately \$90 million. While the restriction on supply applies to small businesses, it is a disincentive to investment in network expansion and creates a hurdle in contracting for the supply of superfast services for businesses outside major metro areas where such businesses employ less than 15 people. There is also a risk to carriers in contracting to a business that is only just above the threshold of 15 employees, if the departure of employees bringing that customer into the definition of a small business.

Superloop also supports the insertion of a power to exempt a class of carriers from Part 8 where such class has less than 2,000 (or in limited circumstances specified in the regulation, up to 20,000) residential customers on all fixed line networks.

Lastly, Superloop would suggest that the term “residential customers” be defined as part of the amendments to Parts 7 to 9 of the Telecommunications Act. Such definition should clearly exclude hospitals, hostels, hotels and motels, aged care facilities, University Colleges and Halls of Residence, and purpose built student housing accommodation facilities. Hospital and hotel guests and other short stay tenants typically receive carriage services directly from their accommodation provider and the services are by nature provided on a prepaid basis, typically using WiFi and fall well outside the intended scope of the NBN.

Regional Broadband Scheme

Superloop opposes the introduction of the levy of \$7.09 per “chargeable service” per month as proposed in the RBS Bill. Superloop does note that none of the entities within the group supply 2,000 or more chargeable services, so it may have the benefit of an exemption to the proposed levy.

The Explanatory Notes to the exposure draft of the RBS Bill claim that it implements the suggestions in the *Cost-Benefit Analysis and Review of Regulation* report chaired by Dr Michael Vertigan (the **Vertigan Report**). However, in its present proposed form, it is a significant departure from the recommendations of the Vertigan Report.

Carriers in Australia already subsidise the supply of services in remote areas under the Universal Service Obligation (**USO**). It is Superloop’s position that the RBS would be better funded from USO revenue, rather than Telstra being the primary recipient of USO revenue as the NBN roll out progresses. Such a suggestion echoes the recent report by the Productivity Commission recommended ceasing the USO arrangement between the government and Telstra, in favour of using the NBN to provide universal telecommunications services, regardless of location.

Superloop also believes that the definition of a “chargeable service” on which the levy will be applied is too broad, being a fixed-line superfast broadband service to a premises (excluding voice-only services). Superloop suggest that it be restricted to applying only to fixed-line services used in the supply of services comparable to those supplied using the NBN. Superloop also suggests that the levy should not apply to a carrier’s existing customer base but instead



only apply to services that commence after the introduction of the levy.

In summary, Superloop would prefer this proposed levy is not introduced at all. However, if the levy is introduced, it should not stand alongside existing USO obligations and Superloop submits that the levy only apply to:

- fixed lines used in the supply of NBN-like services to residential customers; and
- new customer connections and not to existing customers.

Reporting Obligations

The telecommunications industry is already subject to numerous reporting obligations. Superloop has reservations about the introduction of yet more reporting, especially in light of the harsh penalties for late or incorrect reporting.

However, if new reporting obligations are to be imposed, Superloop would suggest a different time of year. Superloop notes that the reporting deadline of July for ongoing annual obligations is already an extremely busy time of year. Superloop suggests that an end of August annual deadline is more appropriate, in line with ACMA Disclosure of Personal Information reporting.

Superloop also would prefer to remove provisions that allow the ACMA and ACCC to disclose information to other government bodies.

As a practical point, Superloop hopes that the ACCC will assist carriers in the management of these new reporting obligations by sending reminders to carriers ahead of reporting deadlines in the same manner that the Department of the Attorney-General reminds carriers of upcoming Interception Capability Plan submission deadlines and the ACMA reminds carriers and CSPs of reporting obligation such as the Disclosure of Personal Information.

Conclusion

For the reasons above Superloop:

- supports the proposed amendments to parts 7 to 9 of the Telecommunications Act;
- does not support the RBS levy; and
- does not support the associated reporting obligations.

Superloop would be pleased to provide any further information or assistance the Committee may require in its consideration of the Telecommunications Legislation Amendment (Competition and Consumer) Bill 2017 and Telecommunications (Regional and Broadband Scheme) Charge Bill 2017. If Superloop can be of any further assistance please do not hesitate to contact Simone Dejun, General Counsel on [redacted] or by phone [redacted]



Yours faithfully,

Simone Dejun
General Counsel
Superloop Limited