AUSTRALIAN COMPETITION & CONSUMER COMMISSION

Communications market report

2022–2023

December 2023

Acknowledgment of country

The ACCC acknowledges the traditional owners and custodians of Country throughout Australia and recognises their continuing connection to the land, sea and community. We pay our respects to them and their cultures; and to their Elders past, present and future.

Australian Competition and Consumer Commission
Land of the Ngunnawal people
23 Marcus Clarke Street, Canberra, Australian Capital Territory, 2601

ACCC 12/23_23–79

www.accc.gov.au

Contents

List of acronyms

ACCC	Australian Competition and Consumer Commission
ACMA	Australian Communications and Media Authority
CCA	*Competition and Consumer Act* (2010)
CVC	connectivity virtual circuit
DSL	digital subscriber line
FTTB	fibre-to-the-basement
FTTC	fibre-to-the-curb
FTTP	fibre-to-the-premises
FTTN	fibre-to-the-node
GB	gigabyte
GHz	gigahertz
HFC	hybrid fibre coaxial
LEO	low-Earth orbit
LTRCM	long term revenue constraint methodology
Mbps	megabits per second
NBN	National Broadband Network
RKR	record keeping rule
RSP	retail service provider
SAU	Special Access Undertaking
SBAS	superfast broadband access service
SIOs	services in operation
Tbps	terabits per second
TIO	Telecommunications Industry Ombudsman
TPG	TPG Telecom
VoIP	voice over internet protocol
4G	fourth generation
5G	fifth generation

Annual advertised price changes in telecommunications services in Australia

June 2023 compared with June 2022, showing the nominal prices for:

- 25th percentile (entry level price, where 25% of plans sampled are below this price)
- median (mid-range price, where this figure is middle value of our data set)
- 75th percentile (high-range price, where 75% of plans sampled are below this price).

See section 5.2 for further information.

NBN fixed broadband

Download speed	Entry-level price	Mid-range price	High-range price
12 Mbps	$60 ▲3.3%	$65 ▲8.3%	$75 ▲13.6%
25 Mbps	$65 ▲0.4%	$70 – flat	$79 ▲5.9%
50 Mbps	$75 ▲7.1%	$80 ▲1.3%	$85 ▼4.5%
100 Mbps	$95 ▲5.5%	$100 – flat	$110 ▲0.9%

Non-NBN fixed broadband

Download speed	Entry-level price	Mid-range price	High-range price
Plans between 10 Mbps to 50 Mbps	$65 – flat	$70 ▼6.7%	$80 – flat
Plans greater than 50 Mbps to 100 Mbps	$75 ▲7.2%	$90 ▲12.5%	$110 ▲10.1%

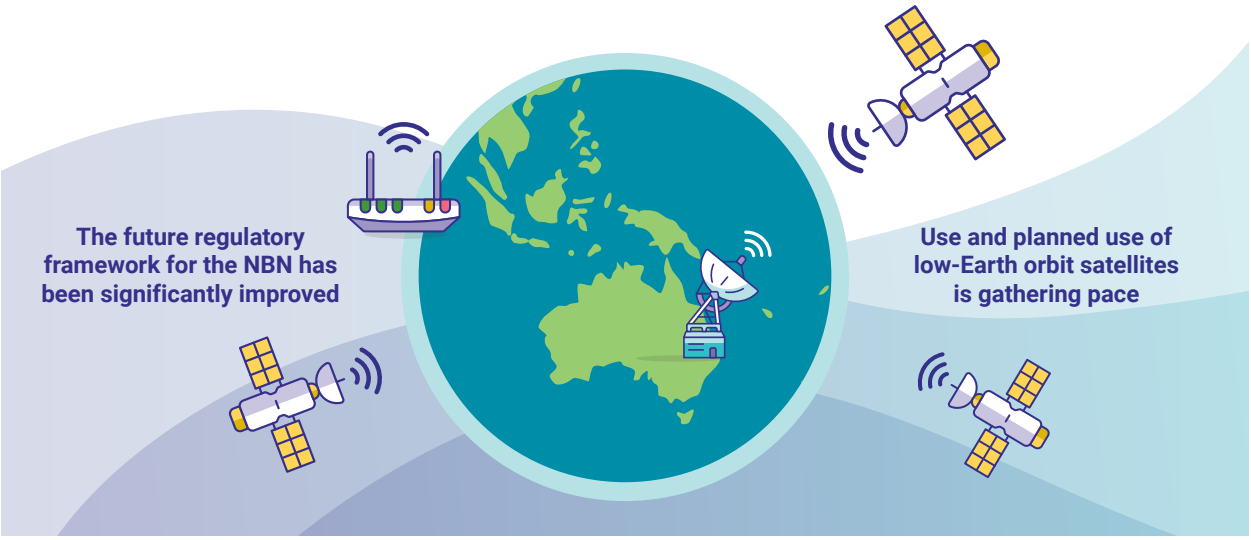
Mobile phone

Brand	Entry-level price	Mid-range price	High-range price
Mobile network operator – flagship	$40 – flat	$58 ▲5.5%	$68 ▼2.9%
Mobile network operator – sub-brands	$20 – flat	$31 ▲3.3%	$40 – flat
Mobile virtual network operator	$20 – flat	$30 – flat	$40 ▼11.1%

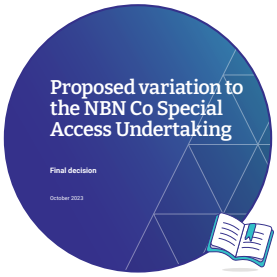
Mobile broadband

Plan	Entry-level price	Mid-range price	High-range price
All sampled	$20 – flat	$35 – flat	$50 – flat

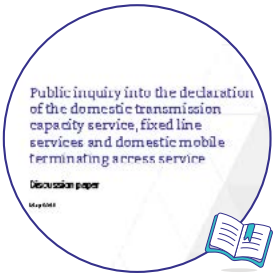
Key market developments



Key ACCC projects

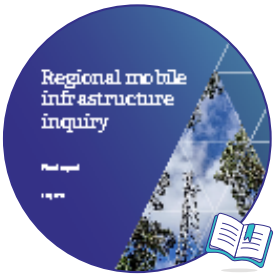


NBN Co progressively improved its proposed variation to its Special Access Undertaking (SAU), which led to its acceptance on 17 October 2023.



On 31 May 2023, the ACCC commenced a combined public inquiry into the regulation of many broadband, voice and data transmission services.

The Measuring Broadband Australia program showed NBN retailers delivered good speed outcomes through 2022–23 and that NBN speed tiers can support online gaming.



The ACCC provided the Regional Mobile Infrastructure Inquiry final report to the Minister for Communications on 30 June 2023.

The SBAS final access determination inquiry continued. The ACCC released a draft decision in October 2022 for comment and an exposure draft of its SBAS access determination in March 2023 that benchmarked access prices to NBN Co offers. The inquiry period has been extended until 19 January 2024 to consider recent NBN Co price changes.

Executive summary

This is the ACCC's annual report on Australian communications markets for 2022–23. It includes an overview of the main market developments including the state of competition in key markets and identifies trends and emerging issues. It also assesses the changes in prices paid by consumers for telecommunications services and examines competitive safeguards within the telecommunications industry.

The Australian communications market experienced several notable developments in 2022–23, which included retail price increases and continued cost pressures faced by retailers. This contributed to broader inflationary pressures on the economy throughout the year.

Given the present issues of cost of living pressures, it is particularly important that consumers and businesses can make informed decisions about what services are right for them in relation to price and the quality of the services. We encourage consumers to review their usage and to shop around for services that suit their needs.

NBN changes will promote the long-term interests of Australian consumers

Over the year to June 2023, NBN Co significantly improved its proposed Special Access Undertaking (SAU) variation proposal to better promote the long-term interests of consumers, in response to stakeholder concerns expressed in our consultations. The SAU will apply until 2040. The SAU sets out many of the rules by which regulated access arrangements for the NBN are to be determined.

The ACCC recently (17 October 2023) accepted NBN Co's variation to its SAU, which includes new wholesale offers that provide greater cost certainty for its customers. The variations bring about significant change and implement fundamental SAU reforms to make it more effective in promoting the long-term interests of consumers who rely on the NBN for broadband access. In addition, it incorporates measures designed to protect consumers from sharp price rises, reduce barriers to entry for new retailers and create incentives to improve NBN consumer experiences, while providing NBN Co with the opportunity to recover its efficiently incurred costs and become financially viable as a stand-alone business.

The SAU sets the regulatory foundation for the NBN and is the tool which encourages efficient investment in, and efficient use, of the network. In addition to providing broad regulatory improvements, the SAU variation includes an added oversight role for the ACCC of NBN Co's services into the future.

Smaller retailers gained market share as NBN competition intensifies

The number of consumers taking up services from smaller retailers such as Aussie Broadband, Superloop and Southern Phone increased over the year. The combined wholesale market share of the top 4 access seekers (Telstra, TPG, Optus and Vocus) fell from 87.4% in June 2022 to 84.1% in June 2023.

Performance from smaller providers is also keeping pace with larger retailers. In recent quarters of the Measuring Broadband Australia program reports, 2 of the top 3 performing broadband retailers for busy hour download speeds were smaller providers.

Consumer prices for some NBN services increased

During the period, the advertised prices for entry-level NBN plans did not increase, remaining at around $75 per month.[1] At the median price point, plans increased from around $89 in 2021–22 to around $95 in 2022–23, while higher priced plans increased from $109 to $114 over the same period.[2] The price increases are likely due to the amount of connectivity virtual circuit (CVC) increasing with consumer demand for bandwidth, placing added cost pressure on retailers.

Consumers are changing speed tiers, with some selecting higher speeds and some moving to lower speeds

With the NBN build now complete, the total number of consumers on NBN plans remained relatively flat over the year with only a slight increase in the total number of services.

The 50 megabits per second (Mbps) speed tier remains the most popular, and the average advertised price for a 50 Mbps plan remained relatively flat at around $80.

Some consumers shifted towards higher speed plans. The estimated retail market share of 100 Mbps and above plans increased from 17% in June 2022 to 24% in June 2023. This was partly due to temporary speed boosts available to consumers.

Plans with 100 Mbps download speeds increased slightly from around $100 in 2021–22 to around $102 in 2022–23. The higher speed plans increased more, with 250 Mbps plans increasing from an median of $123 in 2021–22 to $128 in 2022–23.

At the retail level, the proportion of consumers on lower speed tiers increased in 2022–23 compared with 2021–22. This is partly due to previous speed upgrades unwinding, but also shows that consumers are moving to tiers that suit their needs.

Consumers receive improved download speeds on the NBN, but upload speeds remain lower than maximum plan speed

The ACCC's 22nd quarterly Measuring Broadband Australia report shows that NBN fixed line services recorded their highest ever download speeds during the busy hours (7 to 11pm on weeknights) at 98.5% of plan speed. Recent years have seen a continuing trend of increasing download speeds, due to NBN Co overprovisioning the download component of some plans.

However, upload speeds remain substantially below maximum plan speeds. On average, upload speeds on NBN fixed line plans were only 86.2% of maximum plan speed during busy hours. This is because, unlike downloads, NBN Co does not overprovision the upload component of plans.

1 Lower-priced plans refers to the 25th percentile, where 25% of plans sampled are below this price.

2 Higher-priced plans refers to the 75th percentile, where 75% of plans sampled are below this price.

While most consumers are receiving very close to full download speeds in the busy hours for their chosen plan, there remains a persistent group of consumers, predominantly on NBN fibre-to-the-node (FTTN) connections, who continue to not benefit from these speeds. Around 4.7% of Measuring Broadband Australia volunteers were on connections unable to achieve 75% of their speed tier at any time of the day.

Median prices for mobile network operator's brands increased, while other brands remained flat

Consumers are paying more for mobile phone plans under the Telstra, Optus and TPG Telecom (Vodafone) brands. Overall, the 'flagship' brands from the 3 mobile network operators increased from a median plan price of $50 in 2020–21, to $58 in 2022–23 (across both pre-paid and post-paid plans). Plans from mobile virtual network operators such as Woolworths, Southern Phone, Aldi Mobile and Coles Mobile remained flat, with a median price of $30 between 2021–22 and 2022–23 (across both pre-paid and post-paid plans).

All 3 national mobile network operators continued to increase the prices of post-paid mobile plans offered by their flagship brands. This included both general increases and price increases for customers moved off legacy plans onto newer plans. A small price increase was also observed with respect to services offered by mobile network operator sub-brands, such as Belong and Boost. Similarly, the 3 mobile network operators increased prices for some pre-paid plans, reduced the number of pre-paid plans and in some instances introduced a pre-paid plan speed cap.

The increases in the price of post-paid plans are often coupled with increases in data allowances, special discounts or rewards programs – i.e., 'more for more' pricing. For example, data allowances offered by the national mobile network operators are often well above the average monthly data used by consumers. In 2022–23, the ACCC estimates that the median data allowance for post-paid plans across all service providers was 40 gigabytes (GB) per month, while the monthly average data usage reported to the ACCC was only 15.9 GB per user. Similarly, the ACCC estimates that the median data allowance for pre-paid plans across all service providers was 32 GB, while the monthly average data usage reported to the ACCC was only 7.5 GB per user.

Telstra and TPG proposed regional network sharing arrangement opposed

In December 2022, the ACCC decided not to authorise Telstra and TPG's proposed regional network sharing arrangement. The ACCC noted some potential benefits arising from the arrangement but considered that the arrangements would likely lead to less competition over the longer term.

The arrangements involved a significant change to the structure of the mobile market that would have long-term consequences including a negative impact on coverage, network quality and innovation. The ACCC considered that the proposed arrangements would lessen infrastructure-based competition which would make consumers, including those in regional areas, worse off over time.

The ACCC also considered that Telstra controlling more spectrum, a critical input for mobile networks, would entrench Telstra's dominant position in the mobile market.

In June 2023, the Australian Competition Tribunal affirmed the ACCC's decision not to grant authorisation for the proposed network sharing arrangements between Telstra and TPG.

Regional Mobile Infrastructure Inquiry finds that Telstra's enduring competitive advantage impacts incentives to expand mobile coverage

The ACCC's Regional Mobile Infrastructure Inquiry concluded on 30 June 2023. The final report considered matters relating to access to towers, and the feasibility of temporary mobile roaming during natural disasters.

The ACCC's final report found that the mobile network operator's recent sales of mobile towers to specialist tower companies has created strong bilateral relationships between the parties to the sale. These relationships can create restrictions on, and in some circumstances, can limit the activities that the parties can undertake. The ACCC found that it is currently unclear what the impact of the tower sales will be on access to towers.

Demand for new towers and access to existing towers comes primarily from the mobile network operators (Telstra, Optus and TPG Telecom). The ACCC found that mobile network operators will invest in expanding their mobile coverage where they believe it will lead to gaining or maintaining market share in the national mobile market, or they otherwise consider they will generate sufficient revenue to cover the cost of the new site. Telstra's enduring competitive advantage, in that its mobile coverage is unlikely to be matched by others, reduces the incentive for others to expand their mobile networks.

The ACCC also found that the sale of mobile towers and subsequent change in the structure of the mobile telecommunications industry means this aspect of the regulatory framework is no longer fit for purpose.

The ACCC also found that temporary mobile roaming during natural disasters is technically feasible, but would require changes to the mobile network operators' business processes, network and operational systems.

Enforcement and compliance measures continue to protect consumers but industry efforts to protect consumers must improve

The ACCC continues to receive a broad range of communications related complaints. While complaints against most providers generally decreased during 2022–23. Optus experienced a significant number of complaints which were likely linked to the Optus data security breach during October 2022.

The ACCC continues to advocate publicly for improvements in the telecommunications sector's compliance with consumer protection measures. Telecommunications, as an essential service, remains an ACCC compliance and enforcement priority.

In the transition to new NBN wholesale settings taking effect, the ACCC has put NBN retailers on notice to be upfront about impending price changes. The ACCC is also engaging with NBN Co and retailers so that consumers have the information they need to make an informed choice of retail plan that meets their needs and budgets. This includes monitoring how retailers present the capability of cheaper offers so that consumers on a budget do not pay higher prices for plan inclusions they do not need.

1. Introduction

The Australian Competition and Consumer Commission (ACCC) releases the Communications market report every year. The report details recent competitive safeguard activities in the Australian telecommunications industry and the prices paid by consumers for telecommunications services, as required by the *Competition and Consumer Act 2010* (CCA).

The ACCC has a broad role in the Australian telecommunications sector, including competition and access functions, responsibilities relating to the NBN, monitoring and reporting, and compliance work under the CCA and other telecommunications-specific legislation.

The structure of this report is as follows:

- Chapter 2 highlights the key developments from the last year that have influenced both the markets and the ACCC's work in communications.
- Chapter 3 sets out retail pricing and consumer trends for the 2022–23 financial year.
- Chapter 4 reviews the ACCC's engagement in the communications sector in 2022–23. It outlines ACCC actions that have been taken to safeguard both competition and consumers. Telecommunications, as an essential service, remains an ACCC compliance and enforcement priority.

2. Key market developments

2.1 A year in review for the National Broadband Network (NBN)

2.1.1 The review of NBN regulatory arrangements during 2022–23 was finalised

In June 2021, the ACCC commenced a multilateral process to review the NBN SAU. The extensive period of public consultation and review with NBN Co, access seekers, government, and other interested parties continued during 2022–23. NBN Co made 3 formal SAU variation proposals.

In October 2023 the ACCC accepted NBN Co's SAU variation proposal lodged on 14 August 2023. The SAU forms a key part of the regulatory framework for the NBN. It sets many of the terms and conditions for retail service providers (retailers) to access the NBN, including wholesale product pricing and price controls and benchmark (i.e., minimum) service standards. The SAU will remain in effect until 2040, unless NBN Co is privatised in which case it will make way for a new regulatory framework to be developed.

The SAU will provide significant benefits in the long-term interests of consumers, some of these include:

- much greater oversight over the prudency and efficiency of NBN Co's expenditures through a new periodic regulatory review process
- a benchmark service standards framework to improve service quality over time, and links the quality and price of NBN Co's wholesale offers
- moving towards a simpler and more certain wholesale price structure, which will encourage more efficient and competitive retail markets
- establishing a long-term price path that is tied to changes in the Consumer Price Index (CPI) until NBN Co reaches annual cost recovery, currently expected in 2030, which safeguards against price shocks while allowing NBN Co the opportunity to transition towards efficient cost recovery and become financially viable as a stand-alone business
- a multi-lateral forum involving NBN Co, retailers, government and consumer representatives to consider initiatives to promote the interests of low income and other disadvantaged consumers, and to allow their interests to be considered by NBN Co ahead of its pricing and product decisions, with the forum's work to be publicly reported.

The ACCC has been able to positively influence and affect NBN Co's proposals through direct discussions and those overseen with industry, to ensure a focus on the long-term interests of end-users. This was a key requirement in the final decision to either accept or reject NBN Co's SAU variation proposal.

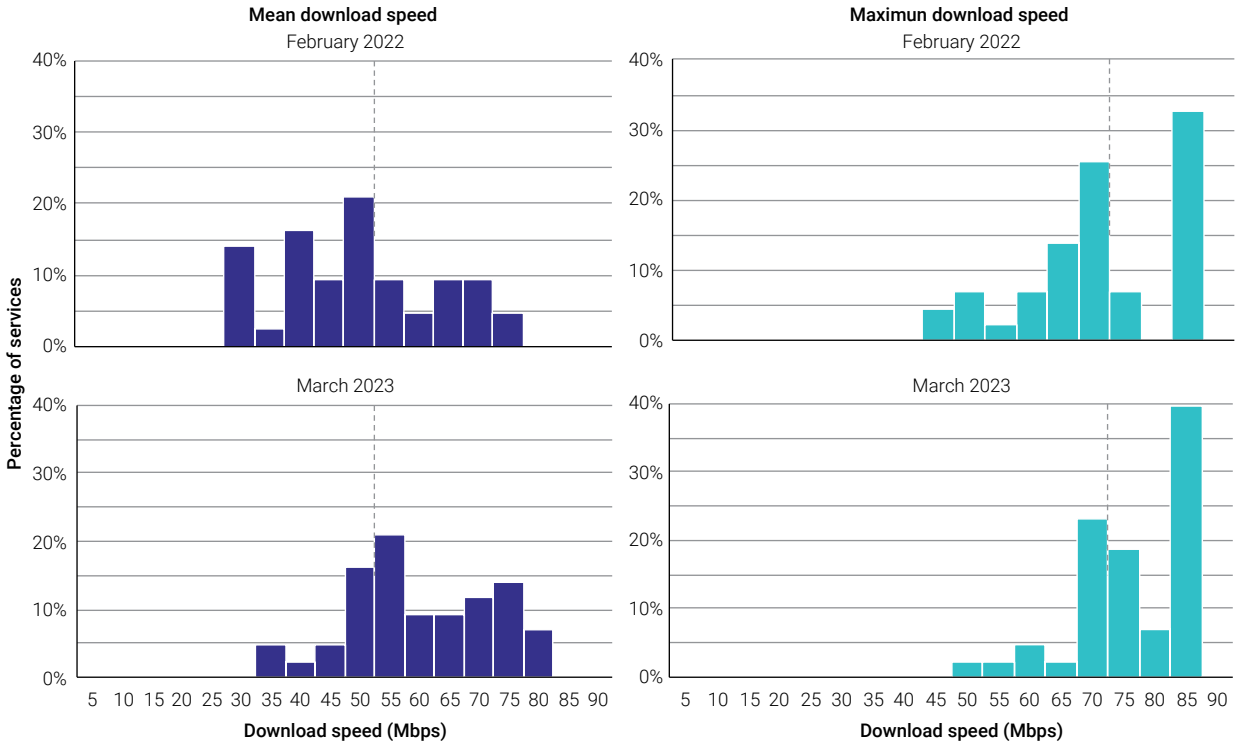
While the SAU provides the overarching framework for NBN regulation, full contractual terms under which NBN Co provides wholesale services to its customers (i.e., retailers and other access seekers) are set out in a commercial agreement between NBN Co and these customers.

2.1.2 Australians on NBN plans generally received good speed outcomes, with Fixed Wireless Plus customers experiencing a significant improvement over the year

The ACCC's Measuring Broadband Australia program found that Australians continued to receive very good download speeds for their chosen NBN fixed line plan tier, although upload speeds remained lower.[3] Our 21st Measuring Broadband Australia report also found that download speeds on NBN fixed wireless connections improved significantly between February 2022 and March 2023.

The 21st report compared the download performance for households that remained on the Fixed Wireless Plus plan from February 2022 to March 2023.[4] In March 2023, the report found 72% of these services achieved average speeds above 50 Mbps, compared to 37% in February 2022. Further, 65% of these services reached a maximum speed exceeding 70 Mbps in March 2023 compared to 40% in February 2022. This is shown in Figure 1 below.

Figure 1: Distribution of mean and maximum download speeds for the NBN Fixed Wireless Plus plan, February 2022 and March 2023



Source: Measuring Broadband Australia – Report 21 – June 2023, p 35.

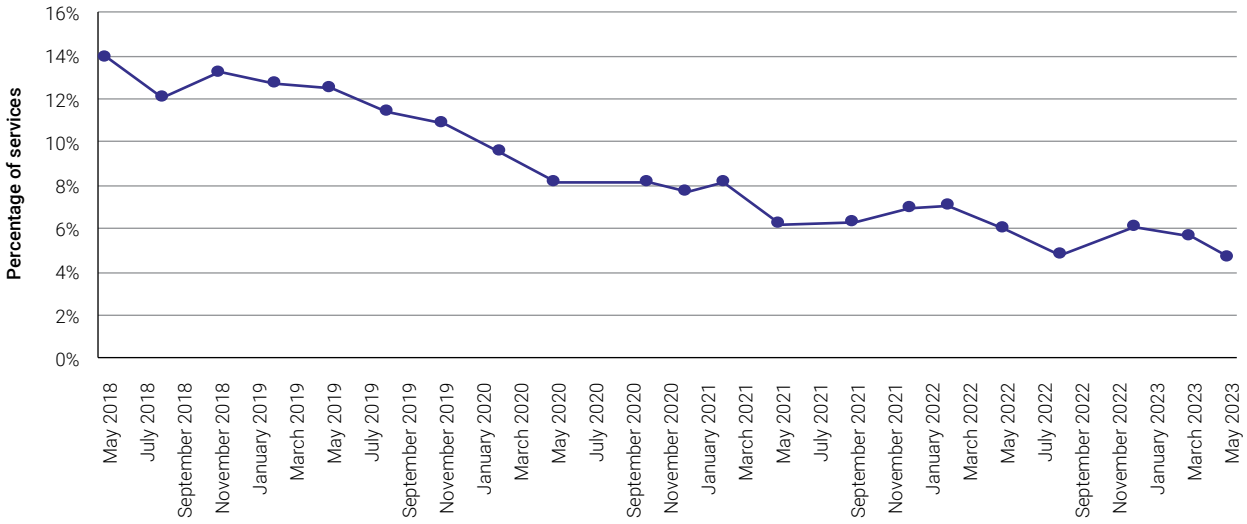
2.1.3 Underperformance of NBN services remain low after declining in recent years

Additionally, the decrease in the proportion of underperforming services in our Measuring Broadband Australia sample group is slowing after a strong decline observed earlier in the program. The percentage of underperforming services in the Measuring Broadband Australia program over time is shown in Figure 2.

3 ACCC, 'Measuring Broadband Australia – Report 22 – September 2023', 8 September 2023, accessed 23 October 2023.

4 ACCC, 'Measuring Broadband Australia – Report 21 – June 2023', 29 June 2023, accessed 23 October 2023.

Figure 2: Percentage of NBN fixed line units underperforming in Measuring Broadband Australia reports 2 to 22



Source: Measuring Broadband Australia program, reports 2 to 22, March 2018 to September 2023.

2.1.4 Many retailers are now stating their typical upload speeds during busy period hours

Retailers included in the Measuring Broadband Australia program currently state their typical download speed during the busy period hours. This assists consumers in making informed decisions about services that suit their preferences.

In addition, in October 2022, the ACCC published updated industry guidance on broadband speed advertising to promote more transparent information about upload speeds.[5] As a result, retailers are now expected to make their typical busy period upload speeds available for fixed line services and fixed wireless services as they do for download speeds. Since the guidance was updated, major retailers serving the majority of residential consumers now publish this information.

2.1.5 The number of NBN users remains steady, but the total amount of network capacity acquired continues to grow

The total number of NBN services increased marginally over the year, while disconnection of legacy broadband services approaches completion.[6] NBN Co reported that the number of wholesale residential services in operation (including satellite services) increased 0.4% to 8.76 million services over the year. In contrast, there were less than 120,000 legacy digital subscriber line (DSL) services remaining at the end of June 2023 after intensive decommissioning over the year.

The range of NBN retailers continues to increase, with Australians currently able to choose among almost 150 providers in the market, depending on location.[7]

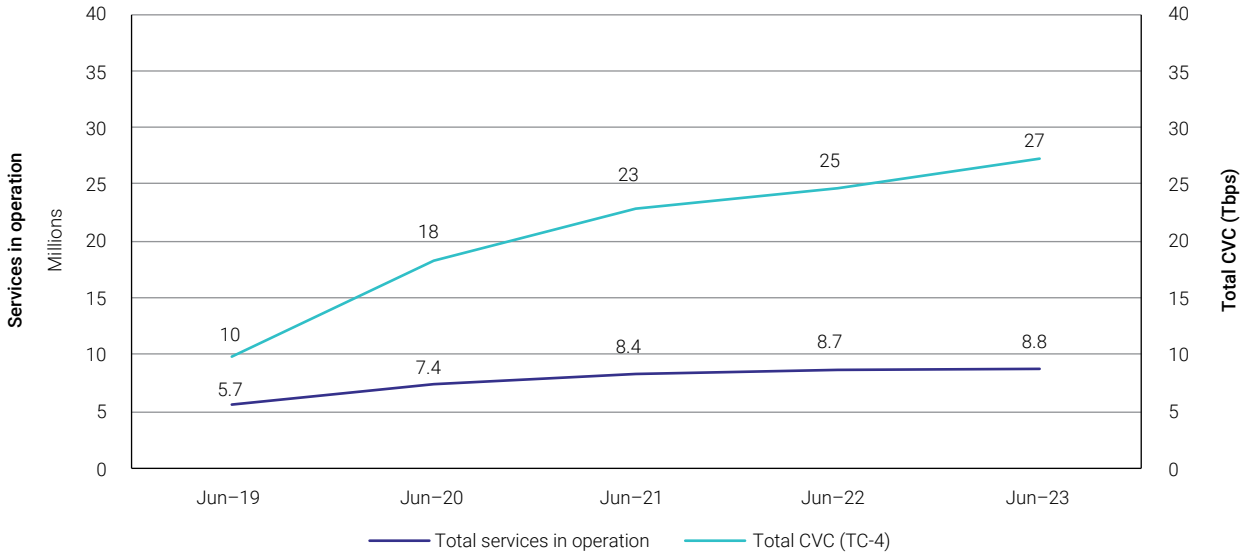
5 ACCC, 'Broadband speed claims: Industry guidance', 31 October 2022, accessed 23 October 2023.

6 ACCC, 'NBN Wholesale Market Indicators Report – June quarter 2023 report', 15 September 2023, accessed 19 October 2023; ACCC, 'NBN Wholesale Market Indicators Report – June quarter 2022 report', 18 August 2022, accessed 19 October 2023.

7 NBN Co, 'List of phone and internet providers', n.d., accessed 13 November 2023.

The total aggregated traffic capacity acquired by NBN access seekers increased 10% over the year from 25 Terabits per second (Tbps) to 27.3 Tbps.[8] This is shown in Figure 3 below.

Figure 3: NBN wholesale residential broadband – total services in operation and total CVC



Source: ACCC NBN Wholesale Market Indicators Reports.

2.1.6 Smaller NBN retailers continue to gain market share, and higher speed services are more popular

Broadly reflecting changes in the retail market,[9] the NBN wholesale market showed a shift away from the most popular speed tier, 50 Mbps, by the end of June 2023.[10] The percentage of wholesale services in operation for the 50 Mbps tier dropped from 55.5% of all residential services (including satellite) in June 2022, to 44.2% of all residential services in June 2023.

Demand for NBN Co's entry 12 Mbps tier also fell, representing 8.1% of the wholesale market in June 2023, down from 9.7% in June 2022. The fall in 50 Mbps and 12 Mbps flowed onto increases in the number of higher-speed services of 100 Mbps and above. The wholesale market share for 100 Mbps and above services increased from 17.7% in June 2022 to 26.3% in June 2023.

Smaller NBN retailers continued to increase their participation in the NBN wholesale market. The combined market share of the top 4 NBN access seekers (Telstra, Optus, TPG Telecom and Vocus) decreased for the fourth consecutive year, although they still accounted for 84.1% of all wholesale services in June 2023. The 3 largest retailers (Telstra, TPG and Optus) collectively acquired approximately 320,000 fewer services as at the end of June 2023 compared with the end of June 2022.

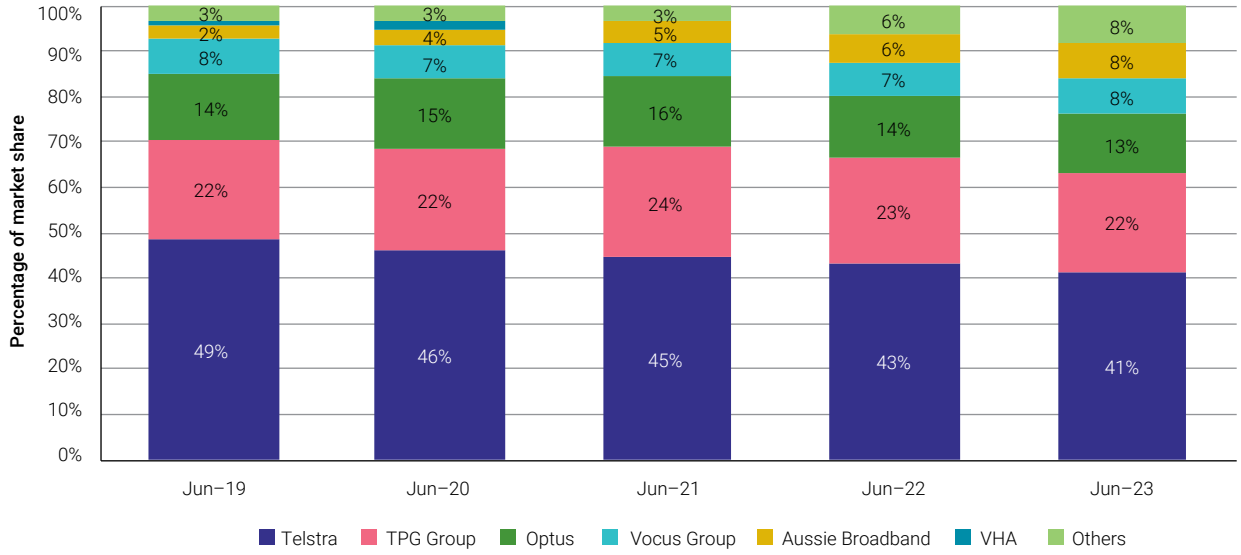
8 ACCC, 'NBN Wholesale Market Indicators Report – June quarter 2023 report', 15 September 2023, accessed 14 November 2023.

9 We note that there can be differences in the wholesale speed tiers and retail plan speeds, as retailers can offer bespoke retail speeds or acquire a higher wholesale speed tier that they 'shape' to a lower retail speed plan. This shaping can be done to reduce retailer's overall supply costs.

10 ACCC, 'NBN Wholesale Market Indicators Report – June quarter 2023 report', 15 September 2023, accessed 19 October 2023; ACCC, 'NBN Wholesale Market Indicators Report – June quarter 2022 report', 18 August 2022, accessed 19 October 2023.

Smaller retailers gained 3.3 percentage points of the wholesale market share in the year, making up 15.9% of the market at the end of June 2023. This growth was led by Aussie Broadband, which increased its market share to 7.5% (up 1.1 percentage points).[11]

Figure 4: NBN wholesale – residential broadband market shares between June 2019 and June 2023



Source: ACCC NBN Wholesale Market Indicators Reports (note VHA moved in to TPG Group reporting in 2021).

Small retailers have also expanded their businesses into new areas by entering more NBN points of interconnect (POIs), with some achieving national coverage. At the end of June 2023, all 121 POIs had at least 18 NBN access seekers. As smaller retailers increase their customer base, they are more capable of expanding into more NBN POIs and over time also invest in building their own backhaul to the NBN POIs.[12]

2.1.7 Concerns about service quality has led to an increased focus on transparency

NBN Co's varied SAU specifies the minimum benchmark service standards for the first regulatory cycle (i.e., until 2026) which NBN Co must meet or exceed in its standard form of access agreement with access seekers. The SAU also provides a process to consult and report on measures to improve quality over the first regulatory cycle. Further, benchmark service standards may be updated over the SAU term through the inclusion of:

- a framework for setting benchmark service standards at the beginning of each following regulatory cycle
- a mechanism to adjust service standard benchmarks within a regulatory cycle in each regulatory period occurring within the subsequent regulatory period (i.e., until 2032).

The new SAU framework has been developed to promote greater consistency and uplift in service quality over time. By allowing service quality and price to be considered within the same process, price-quality trade-offs will be considered by NBN Co and access seekers in the replacement module

11 ACCC, 'NBN Wholesale Market Indicators Report – June quarter 2023 report', 15 September 2023, accessed 19 October 2023; ACCC, 'NBN Wholesale Market Indicators Report – June quarter 2022 report', 18 August 2022, accessed 19 October 2023.

12 ACCC, 'NBN Wholesale Market Indicators Report – June quarter 2023 report', 15 September 2023, accessed 19 October 2023; ACCC, 'NBN Wholesale Market Indicators Report – June quarter 2022 report', 18 August 2022, accessed 19 October 2023.

process. The additional consultation requirements and regulatory oversight under the SAU will encourage NBN Co to make changes on matters of most importance to retailers and consumers. This includes solving for issues that drive poor retailer and consumer outcomes.

The ACCC commenced a new project at the end of 2022 to develop a record keeping rule for NBN Co regarding its service quality and network performance.[13] This record keeping rule would help to support our regulatory functions and potential public reporting of NBN Co's service quality and network performance. The record keeping rule would require NBN Co to retain certain information and provide that information to the ACCC.

2.2 Developments in non-NBN broadband networks

2.2.1 Non-NBN residential broadband networks continue to have good download and upload speeds

The Measuring Broadband Australia program also monitors the performance of the Uniti Group's OptiComm and LBNCo networks. These networks consistently perform well and are comparable to NBN services for download and upload speeds. In May 2023, these services delivered 105% of download plan speeds and 89% of upload plan speeds in all hours, inclusive of busy hours.[14] These services are primarily provided over fibre-to-the-premises (FTTP) networks, whereas NBN fixed line also includes FTTN, fibre-to-the-building (FTTB), fibre-to-the-curb (FTTC) and hybrid fibre coaxial (HFC).

2.2.2 There is a focus on transparency and service quality

The ACCC also is aware that service quality issues exist on the NBN-like, superfast broadband access service (SBAS). Access seekers have raised quality concerns about these networks, and that there is insufficient transparency on service quality issues. They have indicated that the quality and reliability of SBAS networks in some cases are not apparent until end-users make complaints to the retailers about poor service quality. The ACCC intends to extend the NBN service performance record keeping rule to the larger SBAS providers.

2.2.3 Non-NBN broadband networks continue to drive infrastructure-based competition in greenfields areas

Vigorous competition for the opportunity to supply new developments can benefit both developers and ultimately consumers provided that consumers enjoy the same types of outcomes as on the NBN, including a choice of competing retailers and offers with no worse price and quality than available on the NBN.

Importantly, all superfast network operators are required to provide wholesale access on a non-discriminatory basis and those that sell retail services are prohibited from favouring their own retail operations over wholesale customers.

13 ACCC, 'Service quality and network performance record keeping rule for superfast broadband networks', December 2022, accessed 23 October 2023.

14 ACCC, 'Measuring Broadband Australia – Report 22 – September 2023', 8 September 2023, accessed 23 October 2023.

The ACCC is responsible for enforcing these statutory obligations and may take action in the case of non-compliance, including the preferential self-treatment or where wholesale access is not made available on embedded networks, such as in new housing developments and retirement villages.[15]

2.3 Price increases in the mobile market

2.3.1 MNOs increased prices on flagship post-paid mobile plans and reduced pre-paid offerings and inclusions

Consistent with trends observed in recent years, all 3 national mobile network operators continued to increase the prices of post-paid mobile plans offered by their flagship brands:

- In May 2023, Telstra announced a CPI-linked increase (up ~7%) in its post-paid prices effective from 4 July 2023 with more data included on some plans.[16] This followed a similar CPI-linked increase in July 2022 (up ~6%).[17]
- Optus increased its post-paid prices (up between 5–9%) and started charging new and existing customers for Optus Sport ($6.99) in August 2022.[18] Optus also increased the price of its post-paid mobile plans for existing customers by shifting these customers off legacy plans in June 2023.[19]
- VHA increased its post-paid prices by between 6% and 13% in January 2023 (for new customers)[20] and April 2023 (for existing customers).[21]

These price increases have a significant impact, with 89% of users having a mobile service provided by one of the national mobile network operators (flagship or sub-brand).[22] These price increases follow similar trends experienced in 2020 and 2021.[23]

The increases in the price of post-paid plans are often, but not always, coupled with increases in data allowances – i.e., 'more for more' pricing. However, the data quotas offered by the national mobile network operators for post-paid plans are well above the average monthly reported post-paid data usage of 15.9 GB.[24]

There were also price increases with respect to sub-brands offered by the mobile network operators, such as Belong,[25] Boost,[26] and services offered by some mobile virtual network operators, such as Aussie Broadband.[27]

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15 See e.g. ACCC, 'Non-NBN fixed line services access regulation', accessed 14 November 2023.

16 Telstra, 'Telstra price changes', n.d., accessed 13 November 2023.

17 D Crismale, 'Mobile plan price changes: Telstra customers to pay more, but is it worth it?', Finder, 5 July 2022, accessed 13 November 2023.

18 T Donnelly, 'Optus follows Telstra in phone plan price hike', Canstar Blue, 1 August 2022, accessed 13 November 2023.

19 S Varghese, 'Optus hikes post-paid mobile plan prices, users not happy' , iTWire, 23 June 2023, accessed 13 November 2023.

20 M Gabaji, 'Vodafone overhauls mobile plans – but not everyone will be happy', Finder, 24 January 2023, accessed 13 November 2023.

21 D Crismale, 'Vodafone raises mobile plan prices for existing customers: Time to switch?', Finder, 9 March 2023, accessed 13 November 2023.

22 ACCC, 'Internet Activity Record Keeping Rule – June 2023 Report', 11 December 2023, accessed 12 December 2023.

23 ACCC, 'Australian consumers now paying more for mobile plans', 21 June 2021, accessed 13 November 2023.

24 ACCC, 'Internet Activity Record Keeping Rule – June 2023 Report', 11 December 2023, accessed 12 December 2023.

25 D Crismale, 'Belong's cheapest plan is getting more expensive', WhistleOut, 7 June 2023, accessed 13 November 2023.

26 D Crismale, 'Boost Mobile increases prices by $5 per month: should you switch?', WhistleOut, 21 April 2023, accessed 13 November 2023.

27 C Micallef, 'Optus mobile network providers raise prices – are they still worth it?', Finder, 8 August 2023, accessed 13 November 2023.

For pre-paid plans we have also seen the mobile network operators increase prices, reduce the number of plans offered and/or introduce speed caps in some instances:

- In January 2023, VHA reduced its pre-paid plan offerings from 5 plans down to 3.[28]
- From 4 April 2023, Telstra introduced a speed cap (150 Mbps) on its pre-paid 4G and 5G plans.[29] On 4 July 2023, Telstra increased the prices of its pre-paid plans by between $2 and $20.[30]
- In July 2023, Optus revised its pre-paid plans, adding 5G to all plans, but reducing the number of plans on offer (11 down to 6) and introducing speed caps of between 150 and 250 Mbps.[31] The consolidation resulted in a more competitive offering at the $55 price point, but prices increased for plans below this price point.

2.4 Infrastructure competition

2.4.1 Satellites markets are growing, primarily low-Earth orbit satellites

Deployment of the next generation of satellite broadband services – low-Earth orbit (LEO) satellites – have continued gaining momentum during 2022–23. LEO satellites have the potential to fundamentally change the way in which data and voice coverage is provided to the most remote areas of Australia. By orbiting closer to Earth, LEO satellites allow for higher data speeds and lower latency than traditional geostationary satellites.

Starlink has been providing fixed broadband services in Australia via its LEO satellite constellations since it launched the service in 2021. While initially only available in limited remote and low-density areas, the service is now available nationally.[32] Starlink reached over 120,000 Australian customers by May 2023.[33] The company also offers high priority plans targeting business needs and a mobility product for caravans and vessels.

Incumbent telecommunications service providers in Australia have also announced plans to offer broadband services using Starlink's LEO satellites. In November 2022, Vocus announced plans to provide business-grade Starlink based services to enterprise and government customers.[34] In July 2023, Telstra announced plans to resell Starlink satellite broadband and voice services to regional and remote customers from late 2023.[35]

Telstra has also entered into an agreement with OneWeb to use LEO satellite connectivity at mobile sites in remote areas, or as redundancy option in case of disruption of its terrestrial backhaul network.[36]

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28 M Gabaji, 'Vodafone overhauls mobile plans – but not everyone will be happy', Finder, 24 January 2023, accessed 13 November 2023.

29 Telstra, 'How do speed caps work on Pre-Paid mobile plans?', n.d., accessed 13 November 2023.

30 Telstra, 'Pre-Paid Plan updates', n.d., accessed 13 November 2023.

31 A Choros, 'Optus pre-paid plans are getting speed limits in July', WhistleOut, 24 May 2023, accessed 13 November 2023.

32 A Choros, 'Starlink now has Australia-wide coverage', Reviews.org, 6 November 2023, accessed 13 November 2023.

33 J Taylor, 'NBN chief says 'all options on the table' to improve satellite service as Starlink lures customers', The Guardian, 25 May 2023, accessed 17 November 2023.

34 Vocus, 'Vocus signs agreement with SpaceX to provide Starlink Business to customers', 30 November 2022, accessed 13 November 2023.

35 L Willaton, 'We're working with Starlink to connect more people in remote Australia', 3 July 2023, accessed 13 November 2023.

36 R Chirgwin, 'Telstra signs OneWeb to upgrade remote base station backhaul', IT News, 19 June 2023, accessed 13 November 2023.

Trials for the integration of LEO satellites with terrestrial mobile networks are also underway. Optus partnered with Starlink to trial direct-to-handset service. Optus stated that it plans to provide SMS services from late 2024, and voice and data services from late 2025.[37]

As LEO satellite deployments gain pace, traditional satellite connections are declining. Around 15,700 customers cancelled NBN Sky Muster services over the year. This represents 15% of NBN Co's satellite services at the end of the 2022 financial year.[38] In a bid to remain competitive, in June 2023 NBN Co launched a premium Sky Muster version, featuring 'burst' speeds of up to 100 Mbps and uncapped data.[39]

NBN Co has also commenced a fixed wireless and satellite upgrade program, which includes upgrading its fixed wireless network to 5G technology.[40] The program will expand the fixed wireless footprint by up to 50 per cent to cover some former satellite-only eligible premises, introduce 2 new higher speed plans, and change the Sky Muster data limits and enhance network performance. The program will also include upgrades to meet its new proposed 'typical wholesale busy period speed' of at least 50 Mbps (download) on its fixed wireless network by the end of 2024.[41]

2.4.2 Use of home wireless services increased

The mobile network operators continued to expand their home wireless offerings by adding more locations to their 5G compatible services. The ACCC Internet Activity Reports show that, overall, the number of home wireless broadband services (3G/4G/5G) increased by around 36% in June 2023 compared with June 2022. There were around 469,000 services in operation in June 2023, up from around 345,000 services in June 2022.[42]

The price, speed and data allowance of 5G home wireless plans is generally comparable with NBN fixed broadband plans. As such, 5G services in some areas are becoming increasingly attractive to consumers as an alternative to traditional fixed line services.

37 Optus, 'Together Optus and SpaceX Plan to Cover 100% of Australia', 12 July 2023, accessed 23 October 2023.

38 ACCC, 'NBN Wholesale Market Indicators Report – June quarter 2023 report', 15 September 2023, accessed 14 November 2023.

39 NBN Co, 'nbn unveils nbn Sky Muster Plus Premium: offering even more connectivty options for Austalia', 1 June 2023, accessed 13 November 2023.

40 NBN Co, 'Upgrades to nbn Fixed Wireless network deliver improvements for thousands as nbn proposes further enhancements to speeds', 1 November 2023, accessed 17 November 2023.

41 NBN Co., 'NBN Co focuses on speed and reliability in Annual Service Improvement Plan', 9 November 2023, accessed 29 November 2023.

42 ACCC, Internet Activity Record Keeping Rule – June 2023 Report, 11 December 2023, accessed 12 December 2023.

The current[43] mobile network operators' 5G home wireless broadband price and speed offerings with unlimited downloads (excluding discounts) are outlined below:

- Telstra[44] – $85 a month for a typical evening download speed of 336 Mbps
- Optus[45] –
  - $69 a month for a typical evening download speed of 45 Mbps
  - $79 a month for a typical evening download speed of 87 Mbps
  - $99 a month for a typical evening download speed of 240 Mbps
- Vodafone (TPG Telecom)[46] –
  - $65 a month for a typical evening download speed of 50 Mbps
  - $70 a month for a typical evening download speed of 96 Mbps.

2.4.3 The ACCC's Regional Mobile Infrastructure Inquiry found that tower sales may not improve tower access

During 2021 and 2022, Telstra, Optus and TPG Telecom sold most of their mobile tower infrastructure to new tower entities, referred to as 'mobile network infrastructure providers'. These divestments are part of an international trend of mobile network operators selling their passive mobile telecommunications infrastructure to specialist mobile network infrastructure providers.

In light of these tower sales the ACCC was directed by the Government to inquire into access to towers and other infrastructure used in the supply of mobile services in regional areas.[47]

Part of the report focussed on the competitive dynamics of the mobile market. The overall state of competition in the mobile market is the most significant consideration for a mobile network operator assessing the business case for a new mobile site. Mobile network operators have little commercial incentive to invest in regional, rural and remote areas if doing so does not improve their market share, or otherwise generate sufficient additional revenue. The ACCC found that Telstra's competitive advantage in regional areas could potentially raise barriers to competitors' network expansion. This may undermine their incentives to invest in improving mobile coverage in regional areas.

The ACCC also examined the impact of the recent sales of mobile towers to specialist infrastructure owners. The ACCC found that while the sales mean that new tower companies have incentives to increase their revenue through increased use (co-location) on towers, it is currently unclear whether the sales will improve access to towers. This is because each of the 3 mobile network operators sold their tower portfolio to a tower company that they now have a strong bilateral construction relationship with. These relationships can create restrictions and impact whether infrastructure sharing options are pursued particularly on legacy assets.

Additionally, there is remaining vertical integration between Telstra and the company it transferred its towers to, Amplitel. As Amplitel has the largest portfolio of towers across Australia, and owns most towers in outer regional, rural and remote Australia, there is the risk of vertical integration effects impacting tower access.

43 Prices and offerings are as at 14 November 2023.

44 Telstra, 'Why choose 5G Home Internet?', accessed 14 November 2023.

45 Optus, 'Come home to amazing Optus 5G home internet', accessed 14 November 2023.

46 Vodafone, '5G Home Internet Plans', accessed 14 November 2023.

47 ACCC, 'Regional Mobile Infrastructure Inquiry Final Report', 23 October 2023, accessed 23 October 2023.

A consequence of the change in mobile tower ownership is that the regulatory regime, including the Facilities Access Code administered by the ACCC,[48] is no longer fit for purpose, as it does not apply to all the major companies that now have towers.

2.4.4 There continue to be numerous fibre infrastructure investments

High-capacity data transmission networks underlie the supply of most telecommunications services. In 2022–23 there were numerous investments announced that would increase the capacity of long-distance transmission networks and provide geographic alternatives to increase network robustness.

Major fibre projects announced in 2022–23 included:

- The Queensland government announced a $250 million investment to support the expansion of State-owned Queensland Capacity Network. The initiative includes delivering FTTP connections in some regional towns not covered by NBN fixed line services, piggybacking on the rollout of high voltage power lines across the state.[49]
- Aussie Broadband announced new investments to increase the capacity and redundancy of its fibre network, which already extends to more than 1,200 km, connecting more than 30 datacentres and 300 buildings.[50]
- FibreconX, a dark fibre provider interconnecting 36 datacentres in Sydney announced an expansion of the service to Melbourne and Brisbane in 2023.[51]
- In October 2022, NBN Co announced a government-backed investment for the expansion of its fibre access network. The investment will allow 1.5 million homes and businesses currently served by FTTN to be upgraded to FTTP.[52] This is in addition to the 2 million NBN premises upgraded to FTTP as at July 2023.[53]

Both the ongoing growth in household data consumption and the increasing adoption of cloud-based applications by businesses continue to drive infrastructure investments to enhance the capacity and robustness of fibre backhaul networks.

48 A Code of Access to Telecommunications Transmission Towers, Sites of Towers and Underground Facilities.

49 Communications Day, 'Queensland's QCN adds 20,000 sites to infrastructure arsenal', 5 September 2022, p 1; R Chirgwin, 'Queensland putting $250 million in fibre backhaul from Townsville to Mount Isa' *IT News*, 5 October 2023, accessed 13 November 2023.

50 Communications Day, 'Aussie Broadband details aggressive enterprise, government push', 4 May 2023, p.1.

51 Communications Day, 'FibreconX, Southern Cross Cables partner to offer trans-Pacific capacity to Sydney's major DCs', 15 May 2023, p.2.; E Dickinson, 'Southern Cross partners with dark fibre player FibreconX', ARN, 15 May 2023, accessed 13 November 2023.

52 NBN Co, 'NBN Co welcomes $2.4 billion Government investment to enable 1.5 million more homes and businesses to upgrade to full fibre nbn', 19 October 2022, accessed 13 November 2023.

53 NBN Co, 'Two million more Australian households ready to order nbn's fastest home internet', 30 July 2023, accessed 13 November 2023.

3. Pricing and consumer trends

3.1 Approach to pricing methodologies

In recent reports, the ACCC has used 2 price change measurements to provide insight into the price consumers are paying for communications services.

- The 'advertised price' approach measures changes in nominal prices offered to consumers but does not consider changes in product features (for example, higher data allowance or faster download speed).
- The 'feature-adjusted price' (or hedonic) approach measures pure price changes, that is, price changes for a given level of product features. It is an econometric estimate incorporating both changes to advertised price and changes in product features.

In this year's report, we use the advertised price approach, which is outlined in more detail below.

3.1.1 Pause on the use of a hedonic pricing approach

The ACCC has paused its use of a hedonic pricing approach (also referred to as the 'feature-adjusted' approach), and plans to review the approach in the context of continued change and complexity in retail plan features and pricing structures. This may include expanding the scope and frequency of data collection, and consideration of how customer billing data might be used in conjunction with advertised price data.

Analysis of the prices consumers are paying for communications services is challenging due to the rapid changes to telecommunications products, both in how prices are set and in the features of products. There may also be differences in the prices paid by legacy customers and new customers.

Background to our hedonic price analysis

The feature-adjusted price, or hedonic approach, controls for the features/quality of the plans, and then estimates the effect of time on price. The theory underpinning hedonic pricing analysis is that differentiated products can be viewed as a bundle of characteristics. The approach treats each product as a combination of characteristics and features and assigns values to each of the 'price determining' features of the product (for example, download speed and data allowance).

These values are then used to estimate changes in price not explained by the changes in product features. In effect, the hedonic approach splits the overall price change into a feature/quality change component and a pure price change component.

The hedonic approach that has been used since 2017 uses econometric regression modelling to calculate how prices change with time, while controlling for the differences in the characteristics of plans. This has been previously published in the report as the 'annual feature adjusted price index'. The ACCC introduced a less complex advertised price approach in 2020 that considers median prices at the low, middle and high range of plans (the advertised price approach).

The ACCC has regularly reviewed the variables used in our hedonic approach over time, for example we have added additional variables to account for the use of 5G technology in mobile services. Some aspects of the hedonic approach have not been reviewed since the hedonic model was first designed, such as how download speeds and download data allowances are included in the model.

We consider it is timely for us to review the hedonic approach in the context of continued changes to plan pricing structures and features.

3.1.2 Advertised price methodology

The advertised price approach measures change in the nominal prices of plans offered to different groups of consumers. However, it does not take into account changes in product features, such as higher data allowances or faster download speeds, over time. It reflects what consumers are actually offered by retailers. Data on market offers are drawn annually from Critical Information Summaries, which retailers publish on their websites. Prices collected are the ongoing price and do not include temporary discounts.

Retailer plans are then assembled in ascending order according to price, with 3 price points identified:

- the 25th percentile (where 25% of plans sampled are below this price)
- the median price point
- the 75th percentile (where 25% of plans sampled are below this price).

These price points act as proxies for entry-level, mid-range and higher-end consumers respectively. Accordingly, they provide an indication of how different groups are impacted by changes in advertised prices over time.

3.2 Retail NBN fixed broadband services

Fixed broadband services are internet services provided over fixed networks such as the NBN and other fibre-based networks. This section focuses on NBN services that are provided over FTTN, FTTC, FTTP, FTTB, HFC and fixed wireless technologies (that is, all NBN services other than satellite).[54]

Non-NBN services are discussed in section 3.3, fixed line voice services are discussed in section 3.4 and services provided over mobile networks are discussed in section 3.5.

3.2.1 Services in operation

Over 2022–23, NBN Co reported a small increase in the number of wholesale residential fixed line and fixed wireless services in operation of 0.6% to 8.66 million services.[55]

Reporting by major retailers showed that there were 7.35 million retail NBN broadband services as at June 2023 (fixed line and fixed wireless).[56]

This indicates that a portion of NBN services (approximately 1.3 million) were on-sold by NBN access seekers to the NBN reseller market, or were supplied to smaller retailers not covered by the ACCC's Internet Activity Reporting. The ACCC's Internet Activity Reporting covers major retailers only.[57] Figure 5 below provides an estimate of retail market shares.

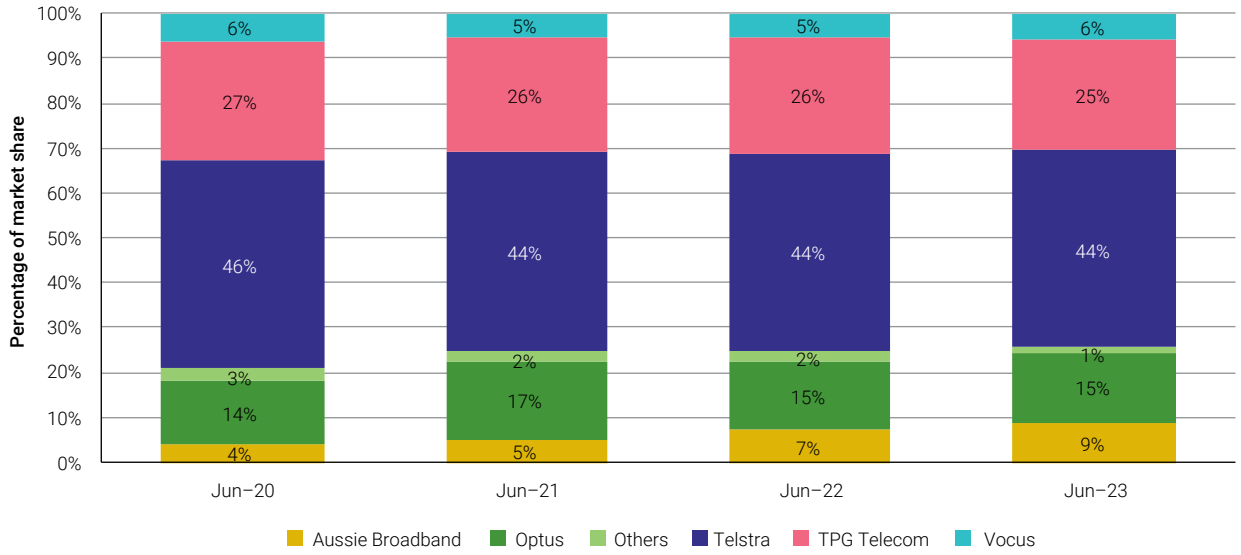
54 NBN fixed wireless has been included in the analysis of fixed broadband services due to the functional similarity between fixed wireless and other fixed access technologies.

55 ACCC, 'NBN Wholesale Market Indicators Report – June quarter 2023 report', 15 September 2023, accessed 19 October 2023; ACCC, 'NBN Wholesale Market Indicators Report – June quarter 2022 report', 18 August 2022, accessed 19 October 2023.

56 ACCC, 'Internet Activity Record Keeping Rule – June 2023 Report', 11 December 2023, accessed 12 December 2023.

57 See section (4)(1) in ACCC, 'Internet Activity Record Keeping Rules', December 2022, accessed 12 December 2023.

Figure 5: Retail NBN market share (major retailers only) from June 2020 to June 2023



Note: The market shares above cover most, but not all, of the retail market for NBN fixed broadband services because some smaller providers are not counted. Sub-brand data includes Telstra's Belong, Vocus's Dodo and iPrimus and TPG's iiNet and Vodafone.

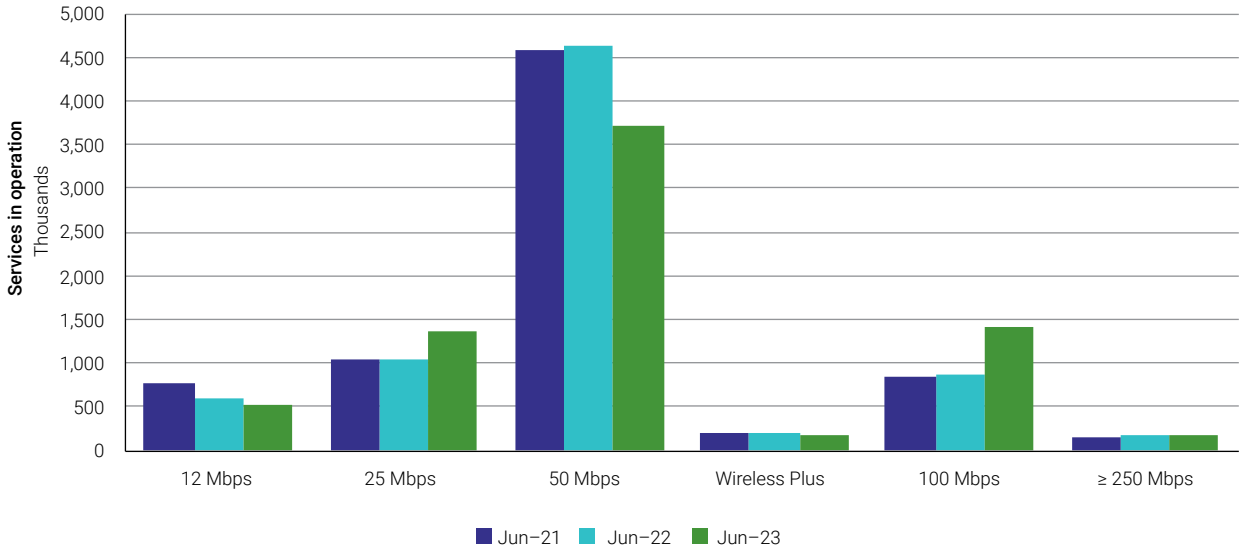
Source: ACCC Internet Activity Reports.

In June 2023 Telstra had the largest market share in the retail market for NBN fixed broadband services (44%), followed by TPG Telecom (25%) and Optus (15%).

Competing retailers have impacted the retail market over time, including Aussie Broadband steadily increasing from 4% market share in June 2020 to 9% in June 2023. Aussie Broadband now holds the fourth largest retail market share and Vocus Group moved to the fifth largest.

Figure 6 shows the breakdown of retail NBN subscribers by speed tier.

Figure 6: NBN retail broadband internet by speed tier (major retailers only) from June 2021 to June 2023



Source: ACCC Internet Activity Reports.

The 50 Mbps tier remains the most popular choice for consumers, however there is an increasing number of consumers moving to higher speeds of 100 Mbps and above, likely driven by changes

to previous wholesale promotions. The estimated market share of 100 Mbps and above retail plans increased from 14% to 21% in 2022–23.

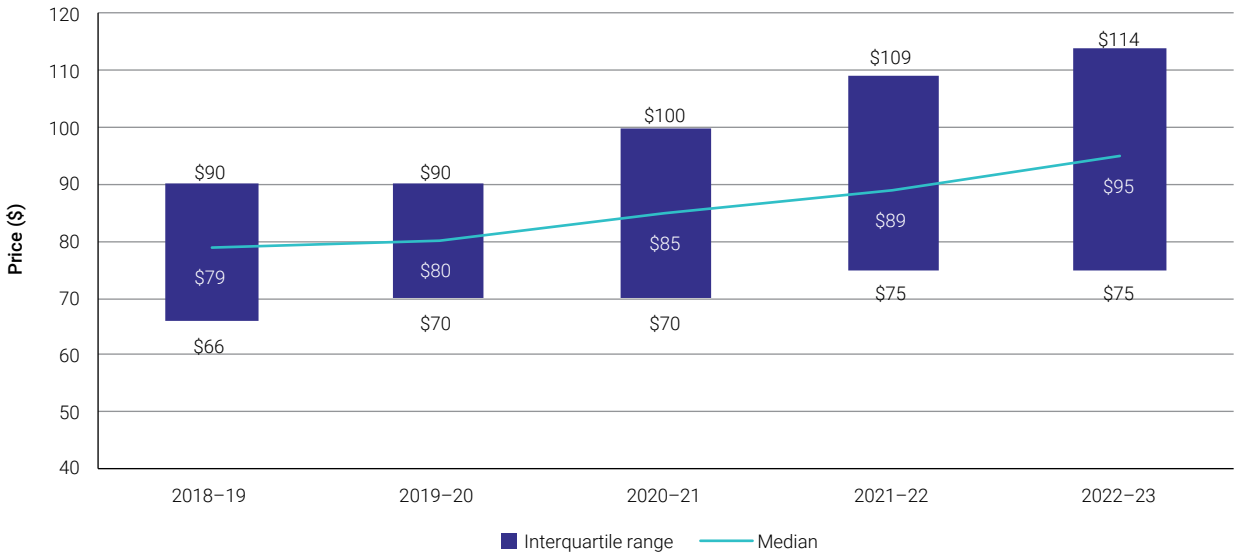
Consumers continue to move off the 12 Mbps service, which only accounted for 7% of the retail market at the end of June 2023.[58] The 25 Mbps tier increased in the year to June 2023, with some customers likely moving up from the 12 Mbps tier and down from the 50 Mbps tier, again, likely driven by changes to previous wholesale discounting. In June 2023, the movements in the 25 Mbps, 50 Mbps and 100 Mbps tiers were partly due to various speed upgrades either unwinding or commencing.

3.2.2 Pricing

Overall, the median advertised price for mid-range NBN fixed broadband services increased in 2022–23, as shown in Figure 7. From 2021–22 to 2022–23, median per month retail prices (exclusive of discounts):

- on entry-level plans (25th percentile) did not increase, remaining at around $75
- at the mid-range (median) price point increased by 6.6% to $94.90
- on the higher-range plans (75th percentile) increased by 4.6% to $114.

Figure 7: Changes in median NBN broadband advertised prices from 2017–18 to 2022–23



Note: Prices are in nominal terms, across all plans sampled.
Source: ACCC estimates based on information from RSP websites.

The price increases on the mid-range (median) and higher-priced plans are likely attributable to a slightly larger proportion of higher speed plans being advertised by retailers and a wider price range for plans collected in the survey. The price increases are also likely related to the increasing amount of connectivity virtual circuit (CVC) acquired to meet consumer demand for bandwidth, placing added cost pressure on retailers.

The ACCC also compared average advertised prices at each NBN speed tier. This found that the average price for plans with download speeds of 50 Mbps remained relatively flat, being close to $80 in both 2021–22 and 2022–23. This is shown in Figure 8 below.

58 ACCC, Internet Activity Record Keeping Rule – June 2023 Report, 11 December 2023, accessed 12 December 2023.

Figure 8: Changes in average NBN fixed broadband advertised prices by plan download speed, 2020–21 to 2022–23

Note: Prices are in nominal terms.
Source: ACCC estimates based on information from RSP websites.

In comparison, the average price of plans with a download speed of 100 Mbps increased slightly from around $100 in 2021–22 to around $102 in 2022–23. Over the same period, the average price of plans with a download speed of 250 Mbps increased from around $123 to around $128, and the average price of plans with download speeds of 1000 Mbps increased from around $139 to around $145. There was a significant increase in the number of 1000 Mbps plans available as at June 2023 compared with June 2022.

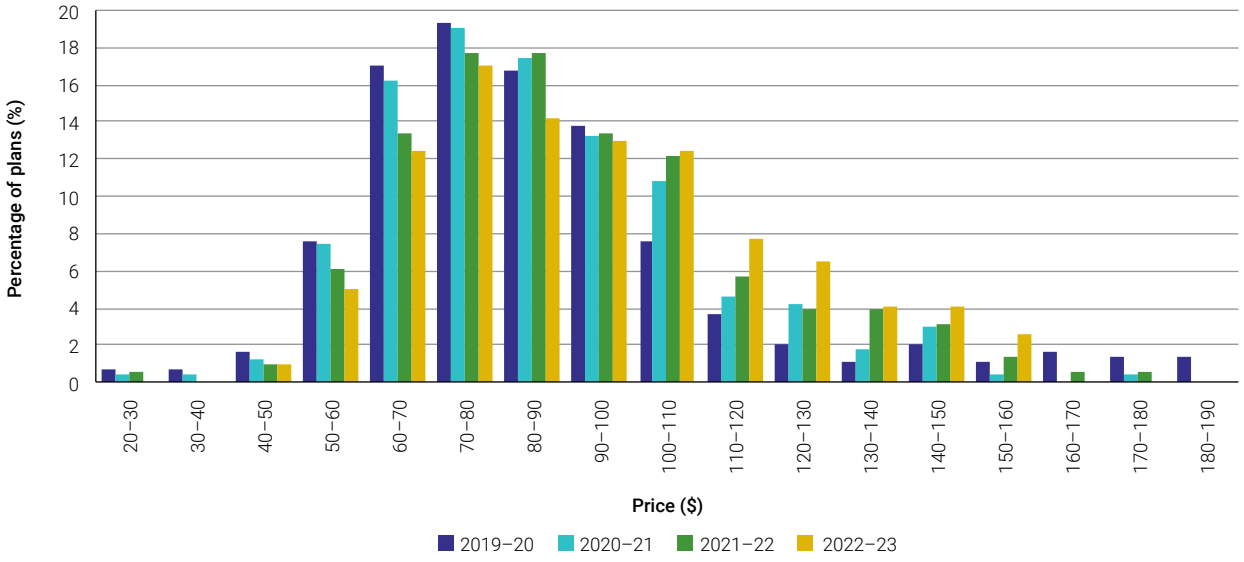
In 2022–23, the price range of plans was $174, whilst in 2021–22 the price range was around $150, and there was a much wider availability of higher speed plans above 100 Mbps advertised in 2023.

At a wholesale level, NBN prices for the 2022–23 financial year remained stable while the SAU variation assessment was underway. We consider that there are likely to be price changes to NBN Co's wholesale prices in the upcoming period which have been discussed with respect to retail prices, which is discussed further in the 'NBN pricing going forward' section below.

Range of plans available

Retailers offer plans at various price points and the number and variety of plans available varies between these price points. Figure 9 below shows the proportions of NBN retail plans at various price points over the last 4 years. For example, the $50–60 price point below captures retail service plans that are greater than $50 and less than or equal to $60.

Figure 9: Percentage of NBN fixed broadband plans at various monthly price points from 2019–20 to 2022–23



Note: Prices are in nominal terms.
Source: ACCC estimates based on information from RSP websites.

Over the last 4 years, there has been an increase in the number of higher priced plans offered by retailers. This is due to several factors, including NBN Co's previous wholesale pricing initiatives which encouraged retailers to move consumers onto high-speed plans.

In 2020–21, NBN Co introduced new wholesale products, leading to retailers significantly promoting these higher download speed plans.[59] The number of plans with download speeds of 250 Mbps and above has increased between 2020–21 and 2022–23. These higher speed plans tend to have higher prices, which has contributed to the skew towards higher priced plans in Figure 9.

Additionally, some retailers have stopped advertising cheaper, entry-level plans meaning the starting price point is now higher.

NBN pricing going forward

Under its new wholesale broadband access agreement commencing on 1 December 2023, NBN Co has provided for the following wholesale price changes:

- a new basic voice and data usage service at around half the price of NBN Co's existing entry-level broadband offer (reduced in price from $22.50 to $12 per month)
- lower prices for the 25 Mbps speed tier and the 100 Mbps or faster speed tiers
- an increase of $5 in the minimum price of the 50 Mbps speed service.

NBN Co's has also removed volume-based capacity charges from 100 Mbps and higher offers, and will progressively reduce these charges on 50 Mbps and below offers before they are completely withdrawn in 2026.

We expect these wholesale pricing changes will result in more efficient use of the NBN.

Going forward, NBN Co is able to gradually increase its wholesale pricing until its annual revenues reach its efficient costs of supply, expected in 2030, on the condition that its weighted average

59 NBN Co, 'NBN launches three new residential wholesale higher speed tiers – media release', 29 May 2020, accessed 19 October 2023.

access price does not increase by more than CPI each year and that no individual residential grade access price increases by more than CPI or 5% per annum.

We expect NBN Co's new wholesale pricing arrangements to affect the pricing of retail offers for the 2023–24 year. It will be up to individual retailers to decide what changes to their residential and business voice and broadband service plans are required, with early announcements indicating diverse approaches to updating retail offers.

For example, Telstra has increased the retail prices for its NBN offers for the Basic (NBN 25) and Essential (NBN 50) plans by $5 a month for both new and existing customers. Optus increased the prices for the NBN 25 and NBN 50 prices for new customers by $1 and $6 a month respectively, and smaller retailer MATE increased prices by $6–$11 across its NBN plans, except for its new entry-level plan. Aussie Broadband increased its prices for NBN 12, 25 and 50 plans by $6 a month and decreased prices for NBN 100 and higher plans by between $4 and $20 a month.[60]

NBN Co's 50 Mbps wholesale speed tier is used to supply the highest number of retail services, but this has declined over the past 2 years at the expense of both higher and lower speed tiers. NBN Co's new pricing structure may see continued changes in the NBN demand mix, with retailers responding in different ways. For example, Launtel has recently announced that it intends to stop retailing 50 Mbps and below services to new customers, instead focusing on 100 Mbps and higher speed products with more keenly priced products.[61]

3.2.3 Advertised NBN retail speed claims and performance

NBN fixed line broadband retailers continue to meet their advertised speed claims, even during the busiest hours. Measuring Broadband Australia data for the May 2023 reporting period showed that most retail service providers were able to deliver average download speeds to Australian consumers that met their advertised speed in over 90% of busy hours throughout the year.[62]

3.3 Retail non-NBN services

Non-NBN fixed line broadband services are provided over fixed line networks owned by service providers other than NBN Co. Historically, these services have been largely delivered over Telstra's copper network, the Optus and Telstra HFC networks, and fibre networks in apartment complexes, regional cities and new housing estates. Some of these networks have been transferred to NBN Co or other carriers in recent years, while Optus' HFC network has been decommissioned and Telstra's copper network continues to be decommissioned within the NBN fixed line footprint.

Outside the NBN fixed line footprint, Telstra still offers DSL broadband services over its copper network, and consumers also have the choice of receiving fixed wireless (including from regional wireless internet service providers) or satellite broadband services in these areas, such as Starlink, discussed in chapter 2 above.

3.3.1 Services in operation

Non-NBN fibre services are the most common non-NBN fixed services, as shown in Figure 10 below. Overall, the number of non-NBN fixed retail broadband services declined by 18% in 2022–23. This was driven by decreases in all access technology types.

60 P Britt, 'Think like an Aussie: What's special about NBN's new SAU', Aussie Broadband, 20 October 2023, accessed 13 November 2023.

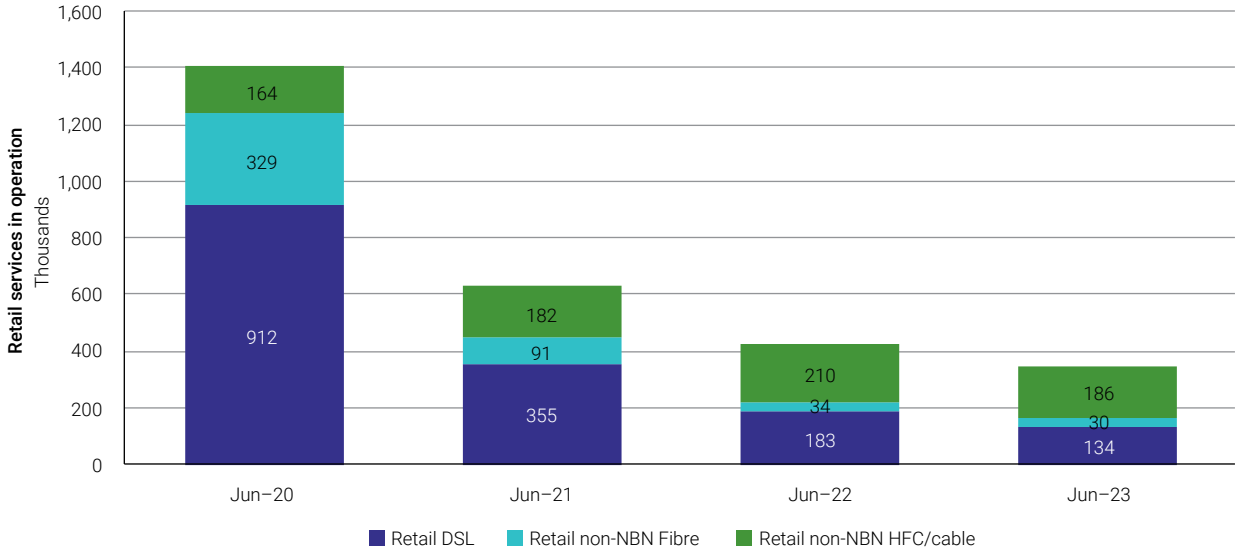
61 D Ivereigh, 'Launtel updates pricing following NBN's agreement with the ACCC', Launtel, 2 November 2023, accessed 15 November 2023.

62 ACCC, 'Measuring Broadband Australia Report 22', 8 September 2023, accessed 19 October 2023.

The largest decrease between 2021–22 and 2022–23 was a 27% fall in legacy DSL internet connections. This is part of the continued decommissioning of services on Telstra's legacy copper network.

Other non-NBN broadband access technologies also saw declines, with HFC and fibre connections both falling 12% between 2021–22 and 2022–23. A small number of DSL services are likely to continue in operation in NBN fixed wireless or satellite areas where disconnection of copper lines is not mandatory.[63]

Figure 10: Retail non-NBN services in operation by access technology from 2019–20 to 2022–23

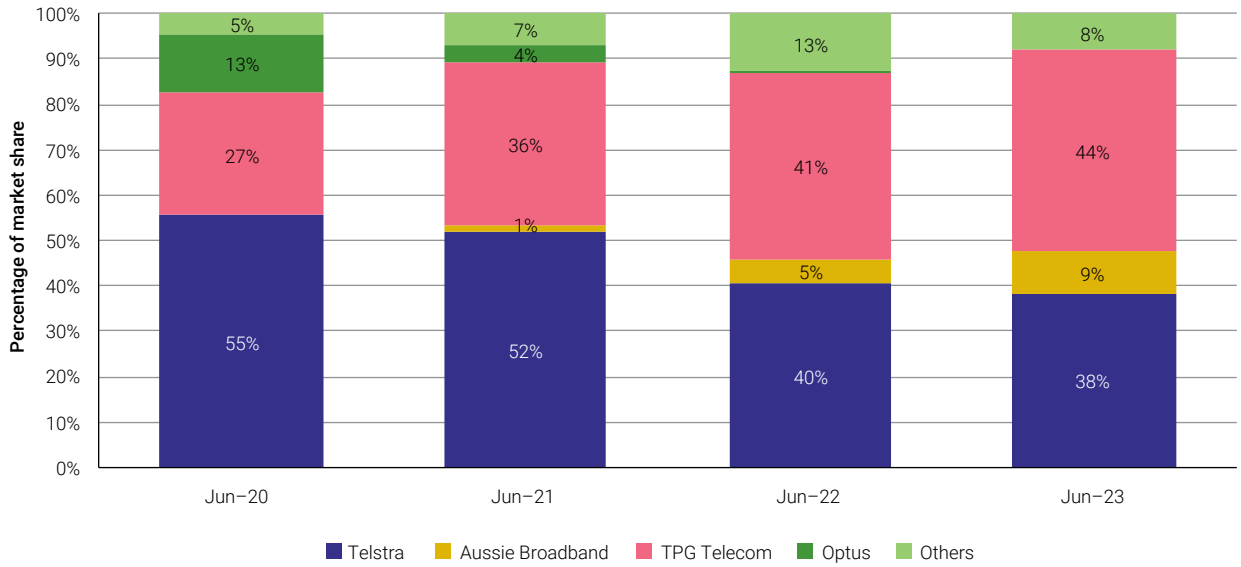


Source: ACCC Internet Activity Reports.

Figure 11 below shows the retail market share for the non-NBN market, excluding satellite services. Figure 11 should be considered in conjunction with the declining number of non-NBN services in operation shown above.

63 ACCC, 'Telstra Customer Access Network Record Keeping Rules – 2022–2023 reports', accessed 14 November 2023.

Figure 11: Retail non-NBN market share (major retailers only) from 30 June 2020 to 30 June 2023



Note: The market shares above cover most, but not all, of the retail market for non-NBN fixed broadband services. Excludes non-NBN fixed satellite access technologies.

Source: ACCC Internet Activity Reports.

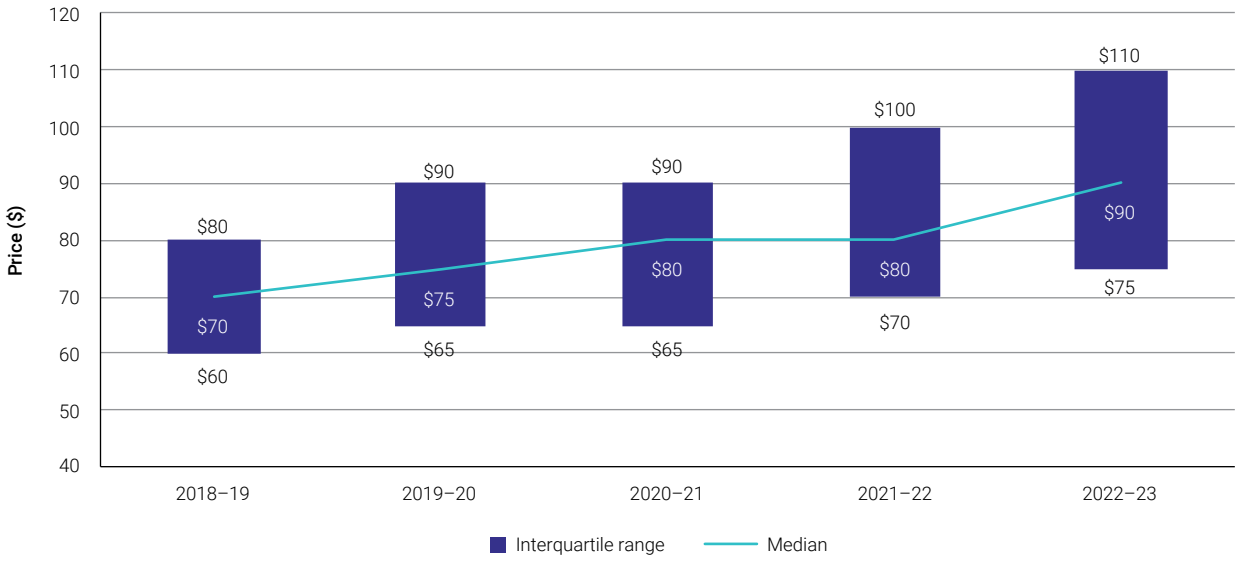
Between 2020 and 2023, Telstra's market share in the non-NBN retail market has decreased, driven by the decommissioning of legacy DSL services. Retailers such as TPG Telecom and Aussie Broadband have increased their market share over the period, providing predominantly fibre non-NBN connections.

3.3.2 Pricing

In 2022–23, the median advertised prices for non-NBN fixed broadband services increased across all plans sampled, as shown in Figure 12. From 2021–22 to 2022–23, per month median retail prices:

- on entry-level plans (25th percentile) increased by 7.2% to $75
- at the mid-range (median) price point increased by 12.5% to $90
- on higher-range plans (75th percentile) increased by 10% to $110.

Figure 12: Changes in median non-NBN fixed broadband advertised prices from 2017–18 to 2022–23



Note: Prices are in nominal terms across all plans sampled.
Source: ACCC estimates based on information from RSP websites.

The median price increases are attributable to a change in composition of plans on offer, which is a trend in recent years. As DSL and HFC services are decommissioned and these plans are no longer offered to new customers, the number of non-NBN fibre plans has increased. Generally, non-NBN fibre plans are more costly and have higher speed options than DSL and HFC plans.

Between 2021–22 and 2022–23, the proportion of retail plans on offer with download speeds of 50 Mbps or less decreased from 59.8% to 39.9%. The lower priced plans are now at the same price point as NBN plans (see Figure 7 above).

While the proportion of plans with download speeds of 50 Mbps or less declined, the average price for plans with a download speed of 50 Mbps also declined. The average prices for plans with a download speed of 12 and, 25 Mbps also declined in 2022–23 compared with 2021–22, driven by a withdrawal of plans at these lower speed tiers. This is shown in Figure 13 below.

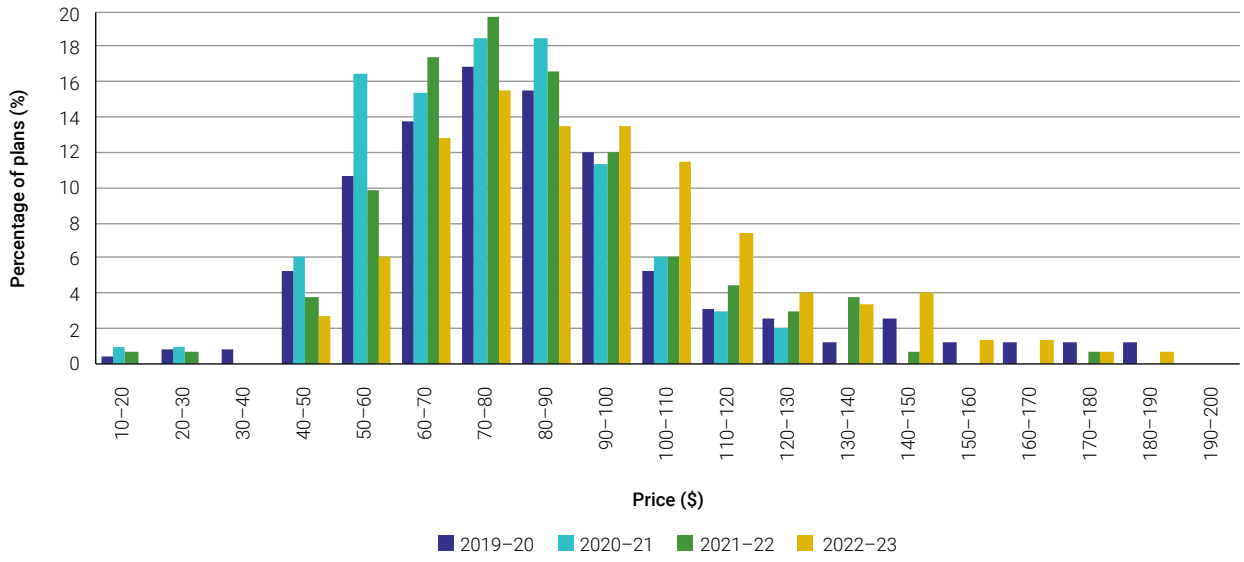
Figure 13: Changes in average non-NBN fixed broadband advertised prices by plan download speed, 2020–21 to 2022–23

Note: Prices are in nominal terms.
Source: ACCC estimates based on information from RSP websites.

Range of plans available

Figure 14 shows that, during 2022–23, the greatest proportion of non-NBN fixed line plans were in the $70–100 price range, accounting for more than 42% of all plans on offer.

Figure 14: Percentage of non-NBN fixed broadband plans at various price points from 2019–20 to 2022–23



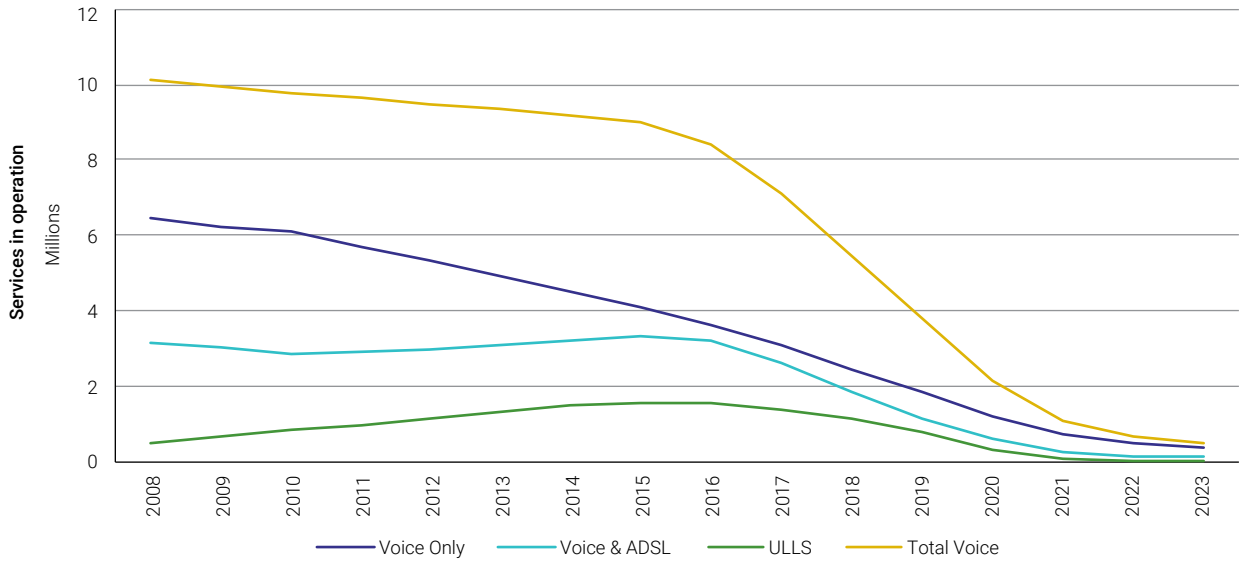
Note: Prices are in nominal terms.
Source: ACCC estimates based on information from RSP websites.

Figure 14 also illustrates the movement of non-NBN plans to higher price points compared with previous years. As outlined above, this is likely due to the compositional shift from DSL and HFC plans to non-NBN fibre, which are increasingly priced equivalently to NBN-based services.

3.4 Fixed line voice services

Figure 15 shows that the number of services in operation for fixed line services over Telstra's legacy copper network has declined substantially since 2016. While voice only services have declined continuously since 2008, voice and DSL bundled services on the legacy copper network experienced a slight and steady increase between 2010 and 2016 and then decreased sharply until 2021, after which it started to stabilise. Unconditioned Local Loop Service (ULLS) services also followed a similar trend to voice and DSL bundled services, with services increasing continuously until 2016 and then declining until 2021 and stabilising afterwards.

Figure 15: Telsta legacy fixed line services 2008–2023



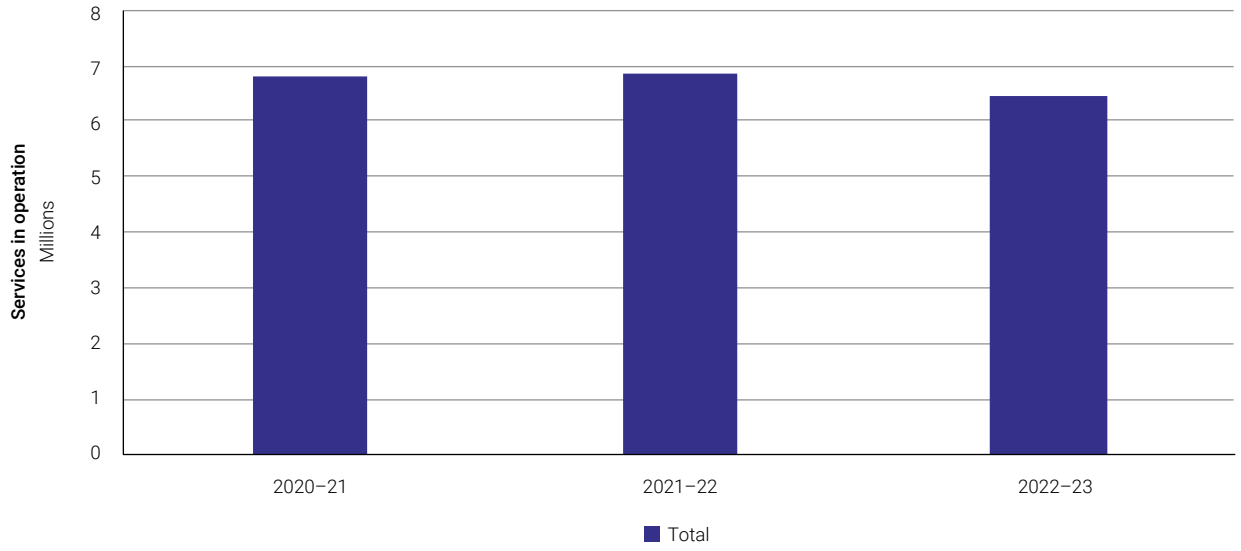
Source: Quarterly snapshots of Telstra's customer access network.

The Australian Communications and Media Authority (ACMA) notes in its Trends and developments in telecommunications report that around 1 in 4 (23%) Australians report using fixed line voice services in 2022, which is similar to the usage in 2021, but down from around 40% in 2020.[64] According to the ACMA report, the largest group of fixed line voice service users are older Australians, with more than 3 in 5 (63%) Australian aged 75 and over using a fixed line voice service in the first half of 2022.

Figure 16 below shows that the number of fixed line voice services in operation including both legacy copper and VoIP based services (such as NBN), has remained relatively steady over the last 3 years.

64 ACMA, 'Communications and media in Australia: Trends and developments in telecommunications 2021–22', July 2023, accessed 14 November 2023.

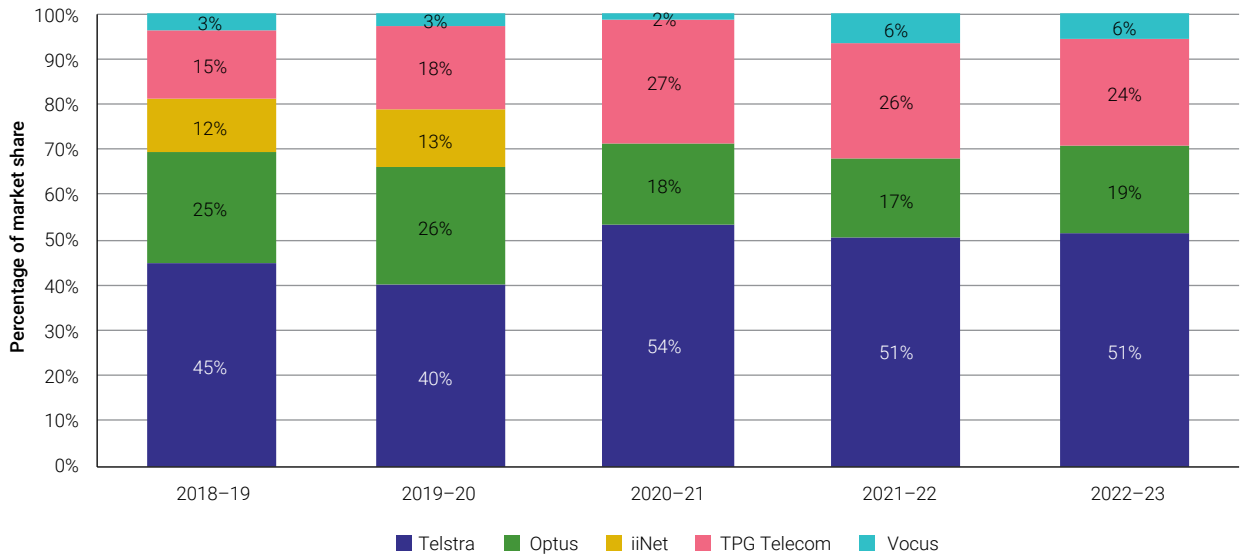
Figure 16: Fixed line voice services in operation, 2020–21 to 2022–23



Source: ACCC Division 12 RKR (includes VoIP services).

Figure 17 below shows that the market shares of fixed line voice services in operation have fluctuated over the last 5 years. Telstra has consistently had the highest market share.

Figure 17: Retail market share for fixed line voice services, 2018–19 to 2022–23



Source: ACCC Division 12 RKR.

Range of legacy voice plans available

Only a few standalone voice plans were available in 2022–23 for the fixed line voice services over the legacy copper network. These were usually offered in regional and rural areas outside the NBN fixed line footprint. In March 2023, Dodo[65] was offering a $30 legacy voice plan while Telstra[66] and Optus[67] were offering $55 plans. The Telstra and Optus plans offered unlimited local, national and mobile

65 Dodo, 'Critical Information Summary – Dodo Voice', June 2022, accessed 1 March 2023.

66 Telstra, 'Ultimate Voice Plan', n.d., accessed 1 March 2023.

67 Optus, 'Optus Plus Phone Everyday', n.d., accessed 1 March 2023.

calls while Dodo's plan charged $0.25 per call for local calls, $0.29 per minute for national calls and $0.39 per minute for calls to mobile numbers.

3.5 Retail mobile phone

Telstra, Optus and TPG Telecom continue to dominate the retail market for mobile services. The 3 mobile network operators operate large vertically integrated telecommunications businesses, offering a range of pre-paid and post-paid retail products. These services include:

- mobile phone plans (a bundle of voice, messaging and data services)
- standalone mobile broadband services
- fixed wireless services (4G and 5G) capable of delivering broadband to fixed addresses at home and small business premises.

In addition to the mobile network operator's flagship retail brands (Telstra, Optus, and TPG Telecom's Vodafone), there are also mobile virtual network operators that acquire wholesale mobile services to provide retail services to consumers. The mobile network operators also operate sub-brands that compete directly with the mobile virtual network operators for the more price sensitive segment of the retail market. These mobile network operator sub-brands include Belong, Felix and Amaysim.

Mobile services remain the most common form of access to both the internet and voice services in Australia. As at 30 June 2023, there were over 29 million mobile phone services in operation, compared to the Australian population of 26.5 million.[68] Approximately 62% or 18.1 million of the services were post-paid services, with pre-paid services accounting for the remainder.

The functional distinction between post-paid and pre-paid mobile phone services has diminished in recent years with pricing and data inclusions on pre-paid plans gradually converging to those on post-paid plans. Additionally, some retailers provide both a pre-paid and post-paid option on the same plan. However, some differences in product features still remain, such as download speed throttling on some pre-paid plans as discussed in Chapter 2.

3.5.1 Services in operation

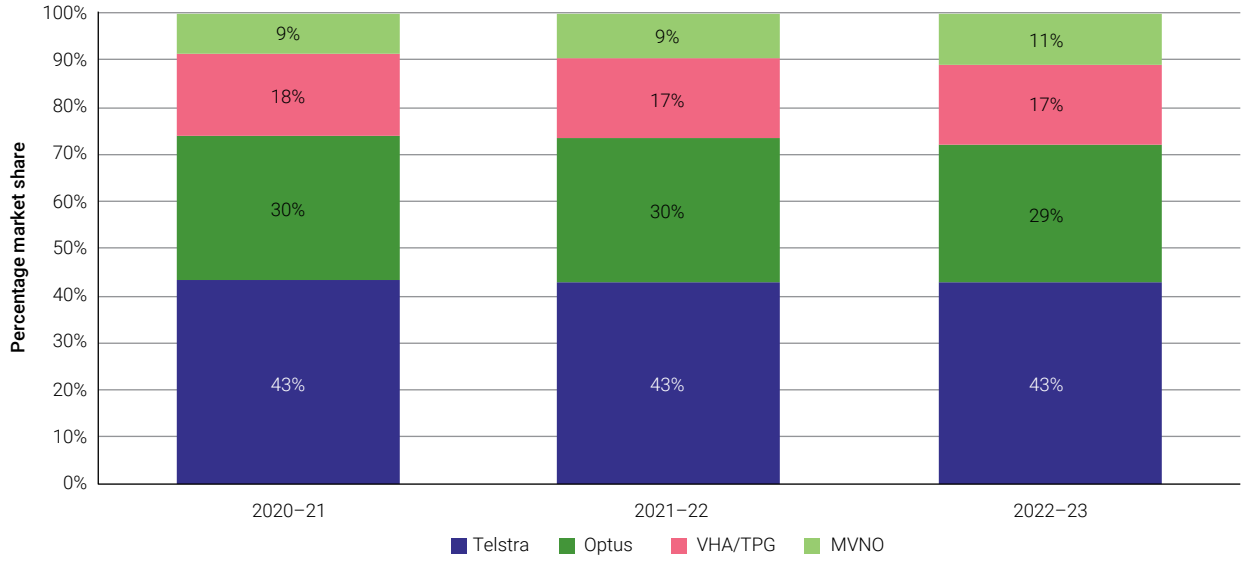
Figure 18 shows that retail market shares for mobile phone services have remained steady over at least the last 3 years, heavily concentrated in retail brands operated by the mobile network operators including related sub-brands.

As at 30 June 2023, the 3 mobile network operators collective market share (inclusive of sub-brands) was significant at 89%. Telstra continued to lead with 43%, followed by Optus (29%) and TPG Telecom (17%) (Figure 18). The remaining 11% market share belongs to mobile network virtual operators. The collective market share of mobile network virtual operators has grown in the last year, up from 9% in 2021–22. However, it is still below the peak of 15% in 2019–20.[69]

68 Australian Bureau of Statistics, 'National, state and territory population, March 2023', 14 September 2023, accessed 15 November 2023.

69 ACCC, Internet Activity Record Keeping Rule – June 2023 Report, 11 December 2023, accessed 12 December 2023.

Figure 18: Retail market share for mobile phone services – mobile network operators vs mobile virtual network operators – 2020–21 to 2022–23



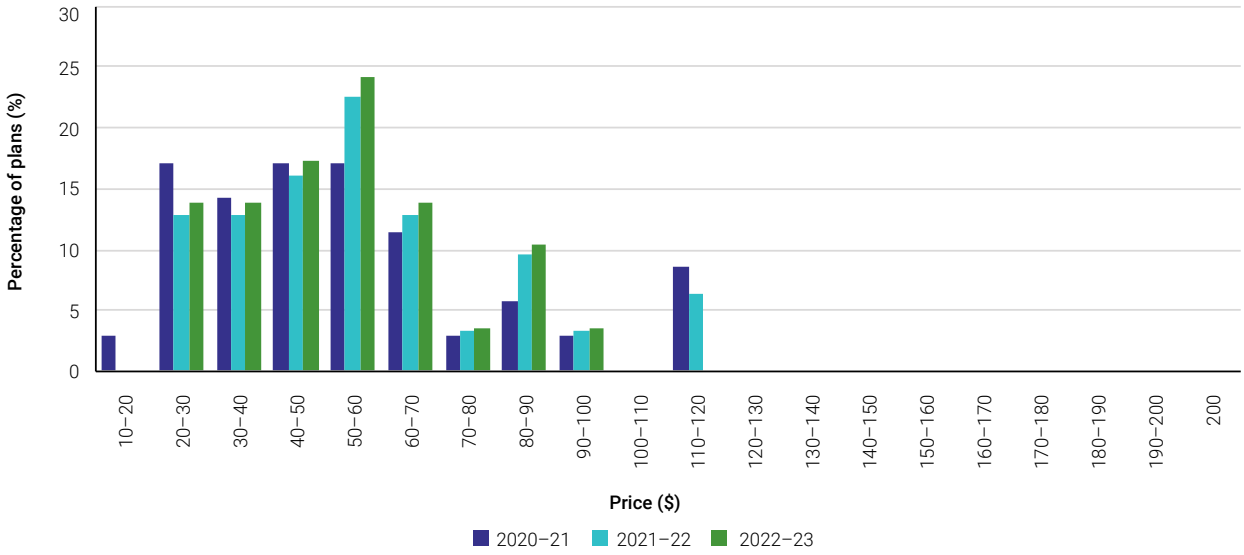
Source: ACCC Internet Activity Reports.

3.5.2 Range of plans available

Figure 20 below illustrates the range of plans available for the mobile network operators' flagship brands from 2020–21 to 2022–23, which suggests that the mobile network operators have been moving towards offering more expensive plans on their flagship brands. In the last 2 years there has been a growth in the number of plans greater than $50 and a declining number of plans under $50 for the mobile network operators' flagship brands.

In 2022–23, the most popular price point for mobile network operator flagship plans was between $50–$60. Previously, in 2020–21, the mobile network operator flagship plans were more evenly spread across the price points at and below $50–$60 (Figure 19).

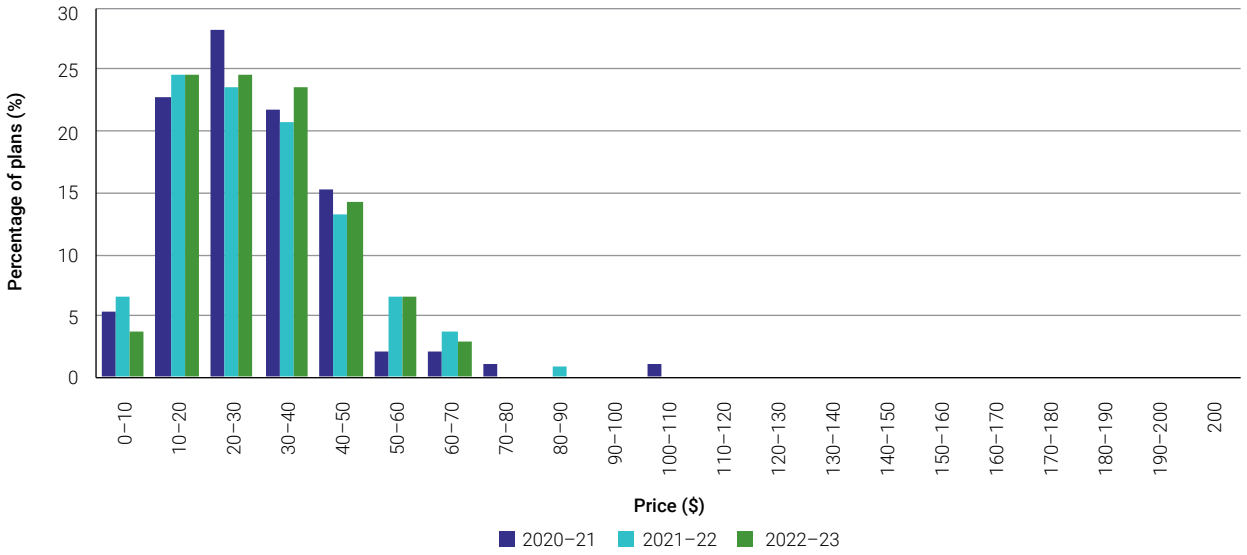
Figure 19: Percentage of mobile network operator flagship mobile phone plans at various price points – 2020–21 to 2022–23



Source: ACCC estimates based on information from RSP websites.

On the other hand, for non-mobile network operator flagship plans the most popular price point was evenly spread across $10–$40 (Figure 20).[70] In 2020–21, the most popular price point was $20–$30. So, while the spread of plans has increased for non-mobile network operator flagship plans the most popular price point in 2022–23 is still well below that of the mobile network operator flagship plans.

Figure 20: Percentage of non-mobile network operator flagship mobile phone plans at various price points – 2020–21 to 2022–23



Note: Non-mobile network operator flagship refers to mobile network operator sub-brands and mobile virtual network operators.

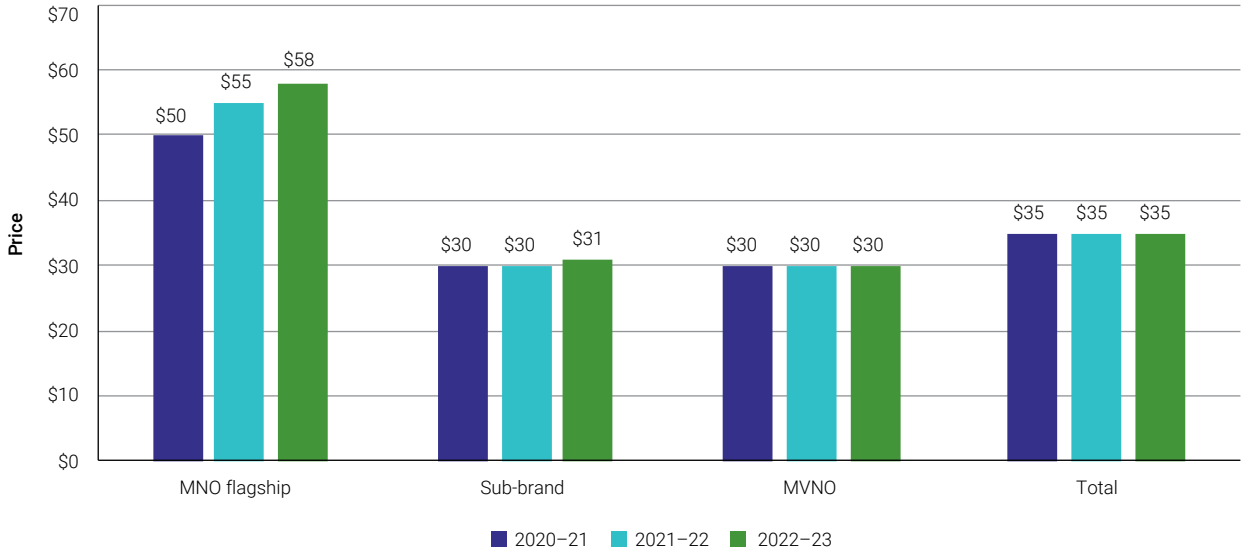
Source: ACCC estimates based on information from RSP websites.

3.5.3 Price changes

Figure 21 below highlights the divergence in the median advertised prices for the mobile network operators' flagship brands compared to prices for the mobile network operators' sub-brands and the mobile virtual network operators' products. Figure 21 draws on data for both pre-paid and post-post plans.

70 Non-mobile network operator means sub-brands and mobile virtual network operators.

Figure 21: Median advertised price for mobile network operator flagship, sub-brand and mobile virtual network operator mobile phone plans – 2020–21 to 2022–23



Source: ACCC estimates based on information from service provider websites.

Figure 21 shows that, overall, the median advertised price for mobile phone services across all sampled providers (combining both post-paid and pre-paid) has remained unchanged in the last 3 years at $35. However, the median advertised price for the mobile network operator's flagship brands has increased 16% from $50 in 2020–21 to $58 in 2022–23 (combining both post-paid and pre-paid plans).

On the other hand, the median advertised price for mobile network operator sub-brands only increased 3% from 2021–22 to 2022–23 and median advertised price for mobile virtual network operators' plans has remained unchanged in the past 3 years.

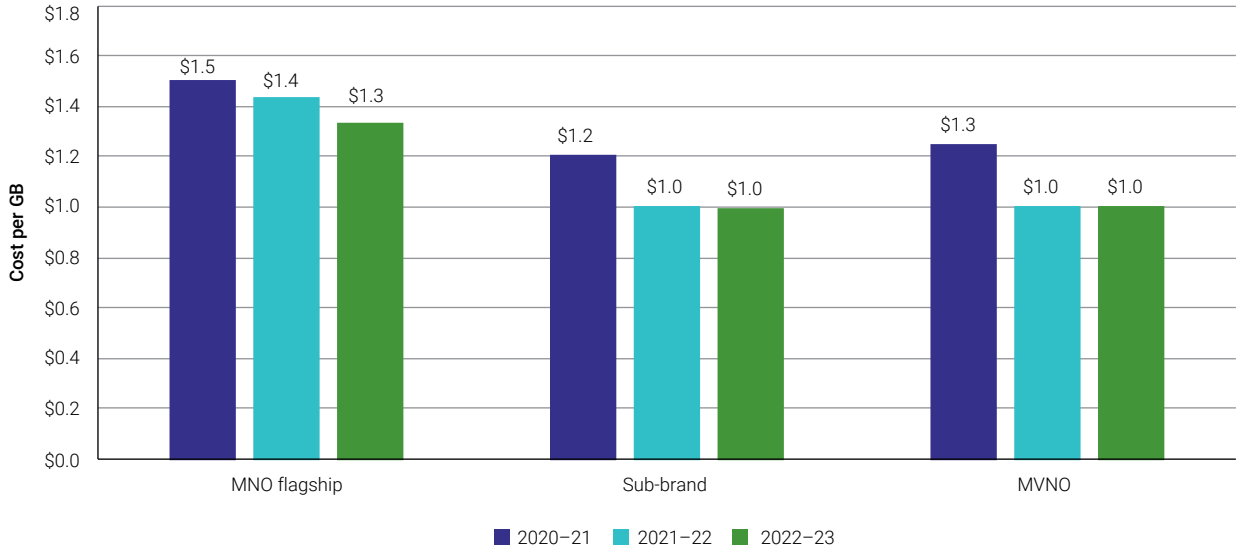
Figure 21 also shows that the median advertised prices for the mobile network operators' flagship brands have been significantly higher than the median advertised prices of their sub-brands and the mobile virtual network operators' plans for the past 3 years.

3.5.4 Data allowances

The price increases in mobile plans observed in recent years were often accompanied with significant increases in data allowances. This suggests that while the plans may have become more expensive, they are *offering* more value in included data. However, consumers may not value having a greater data allowance, which is discussed subsequently in light of average data usage.

Figure 22 below shows the median advertised cost per gigabyte of data across different groups of service providers. The median advertised costs per gigabyte have fallen for the mobile network operators' flagship mobile plans in recent years despite increased advertised prices, which is likely due to higher data allowances being included over the years. However, in 2022–23, the median advertised cost per gigabyte for the mobile network operators' flagship brands remains 30% higher than that of the mobile network operators' sub-brands and mobile virtual network operators.

Figure 22: Median advertised cost per gigabyte of data for mobile phone plans based on advertised data allowances – 2020–21 to 2022–23

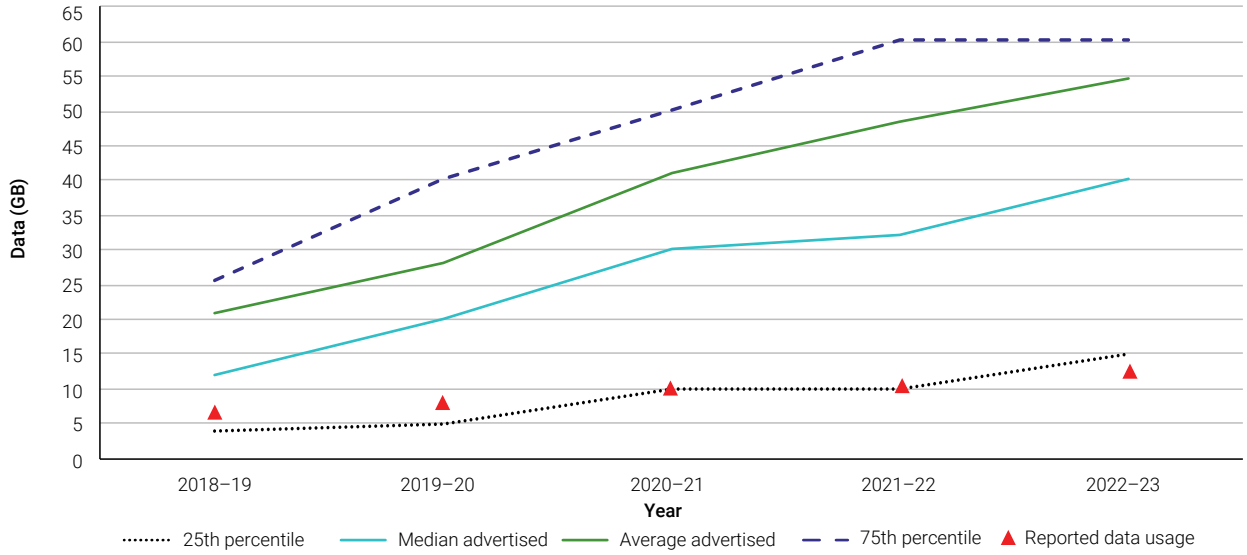


Source: ACCC estimates based on information from RSP websites.

Average monthly data usage for pre-paid and post-paid has been consistently well below the median and average advertised data allowances from 2018–19 to 2022–23. Figure 23 shows that the median advertised data allowance across all service providers in 2022–23 was 40 GB, up from 12 GB in 2018–19, representing a 233% increase. Monthly average reported data usage per service has only increased by 93% over the same period to 12.8 GB, up from 6.6 GB in 2018–19. This suggests that, on average, consumers do not use the higher data allowances that have been offered over time and may instead prefer lower data allowances for a lower price.

This is the case for both post-paid and pre-paid users. In 2022–23, the ACCC estimates that the median advertised data allowance for post-paid plans across all service providers was 40 GB per month, while the monthly average data usage reported to the ACCC was only 15.9 GB per user. Similarly, the ACCC estimates that the median advertised data allowance for pre-paid plans across all service providers was 32 GB, while the monthly average data usage reported to the ACCC was only 7.5 GB per user.

Figure 23: Average, median, 25th percentile and 75th percentile monthly data allowance for mobile phone services – 2018–19 to 2022–23



Source: ACCC estimates based on information from RSP websites and ACCC Internet Activity Reports.

3.6 Retail mobile broadband

3.6.1 Services in operation

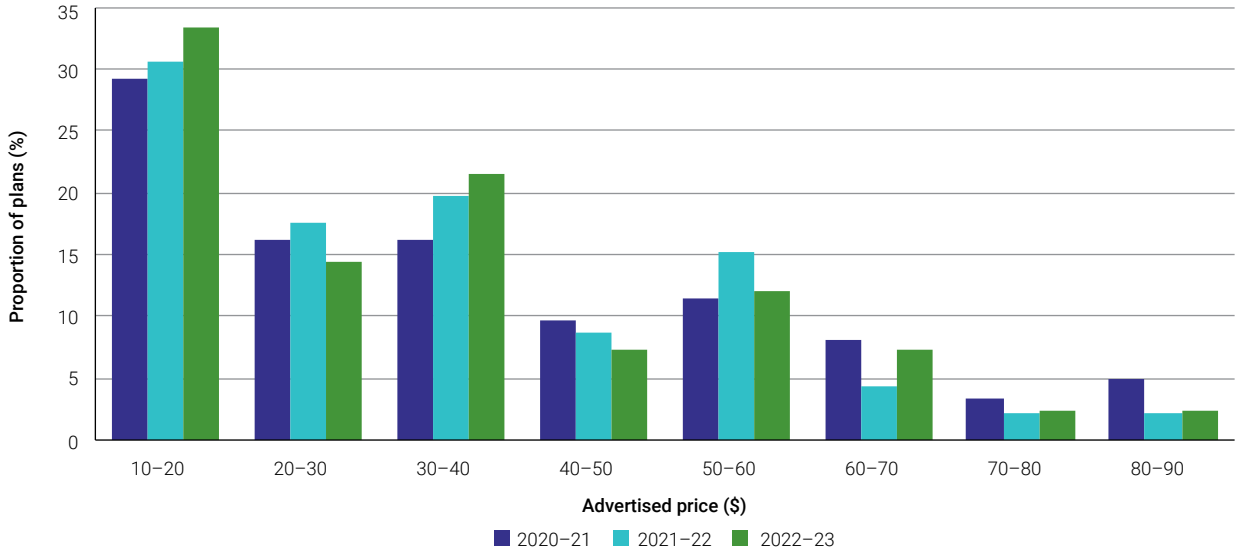
As at 30 June 2023, there were approximately 4.3 million mobile broadband services in operation.[71] Retail market shares for mobile broadband services have remained steady over at least the last 5 years, almost exclusively concentrated in retail brands operated by the mobile network operators.

3.6.2 Range of plans available

Figure 24 shows that in 2022–23 the most popular price point for mobile broadband plans was $10–$20. This is unchanged from 2020–21 and 2021–22.

71 ACCC, Internet Activity Record Keeping Rule – June 2023 Report, 11 December 2023, accessed 12 December 2023.

Figure 24: Percentage of mobile broadband plans at various price points – 2020–21 to 2022–23

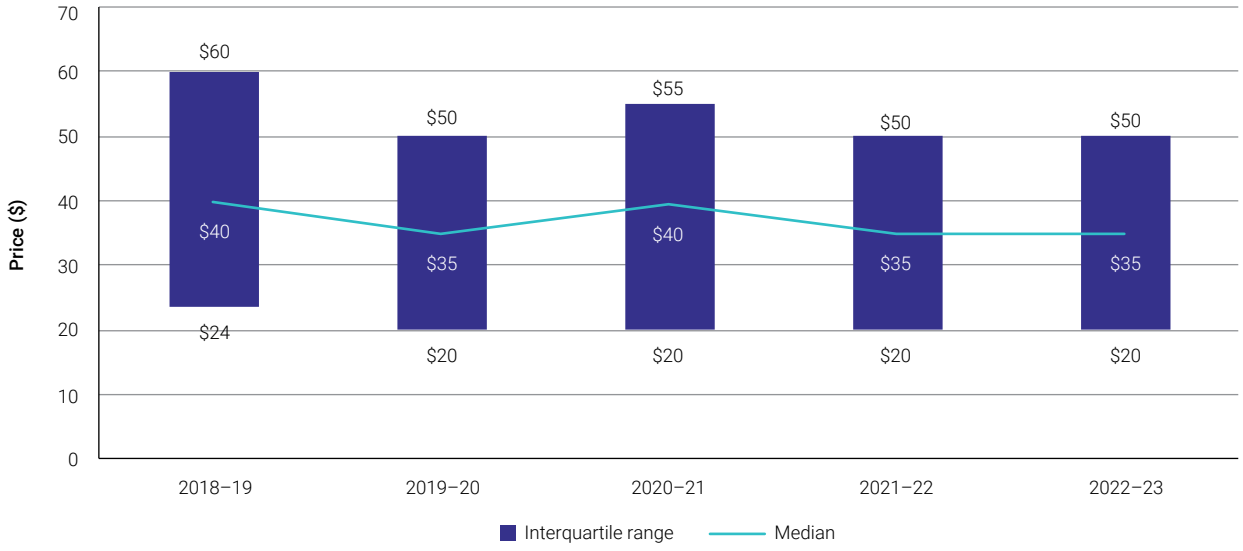


Source: ACCC estimates based on information from service provider websites.

3.6.3 Price changes

Since 2018–19, the median advertised price for mobile broadband plans has varied from between around $40 per month to around $35 per month. The interquartile range has narrowed slightly since 2018–19 to $30 down from $37 (Figure 25).

Figure 25: Median advertised price and interquartile range for mobile broadband services – 2018–19 to 2022–23

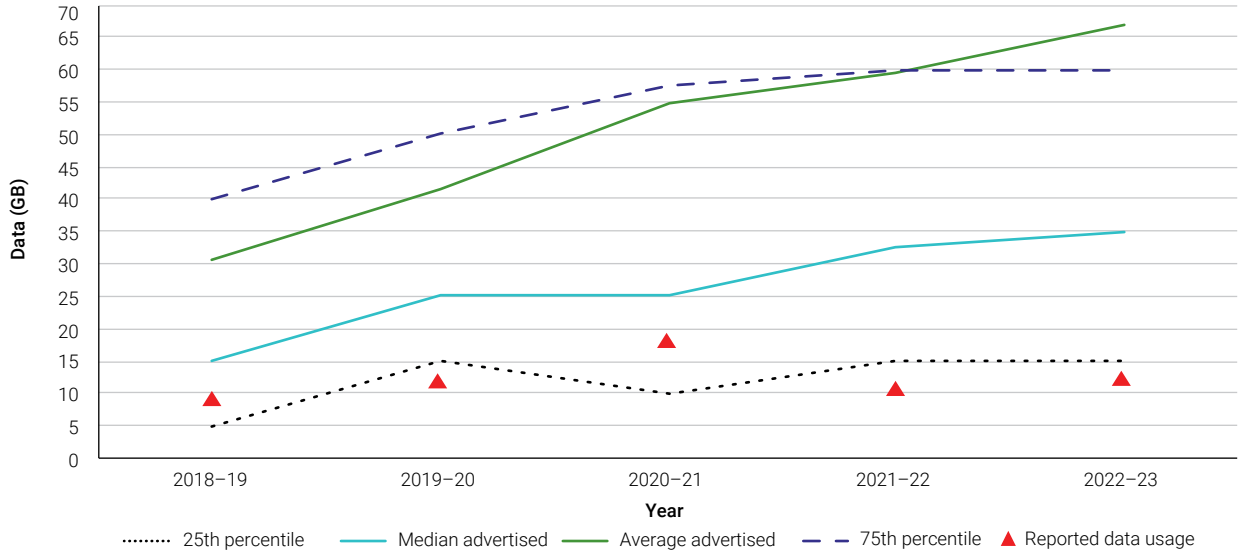


Source: ACCC estimates based on information from RSP websites.

3.6.4 Data allowances

The median data allowance for mobile broadband plans in 2022–23 was 35 GB, up from 15 GB in 2018–19. That is a 133% increase. However, the monthly average reported data usage has only increased by 34% over the same period to 12.3 GB (up from 9.2 GB) (Figure 26).

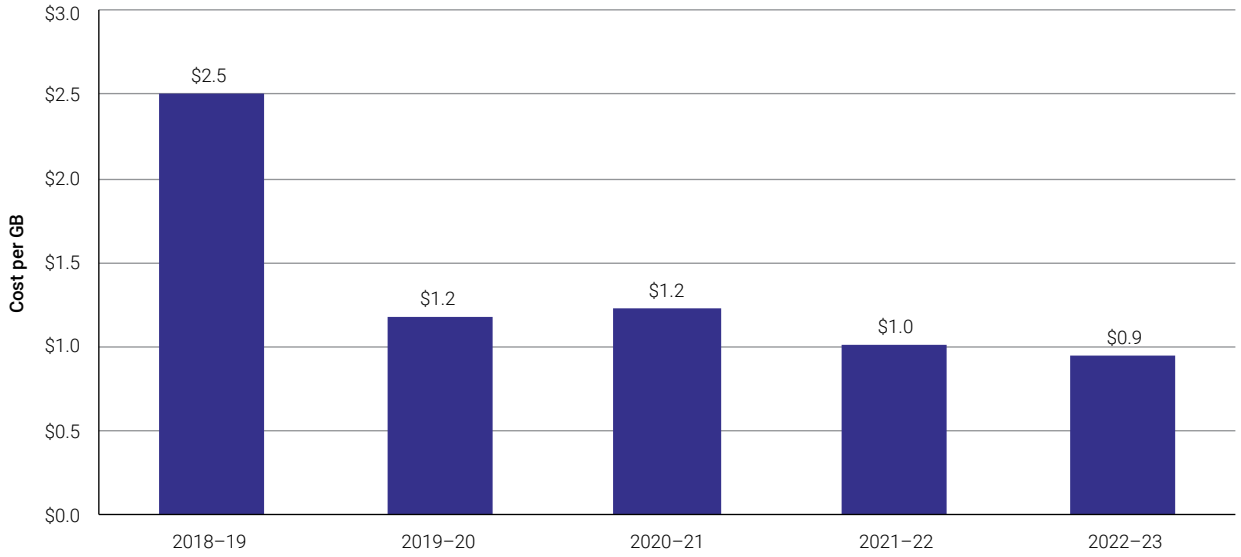
Figure 26: Average, median, 25th percentile and 75th percentile data allowance for mobile broadband services – 2018–19 to 2022–23



Source: ACCC estimates based on information from RSP websites and ACCC Internet Activity Reports.

Figure 27 below shows that that advertised price per gigabyte for mobile broadband plans has declined over the last 5 years from $2.50 in 2018–19 to $0.94 in 2022–23. Most of the decline occurred between 2018–19 and 2019–20 with a much smaller total decline since then.

Figure 27: Median advertised cost per gigabyte of data for mobile broadband plans – 2018–19 to 2022–23



Source: ACCC estimates based on information from RSP websites.

4. ACCC activities

4.1 Telecommunications complaints data

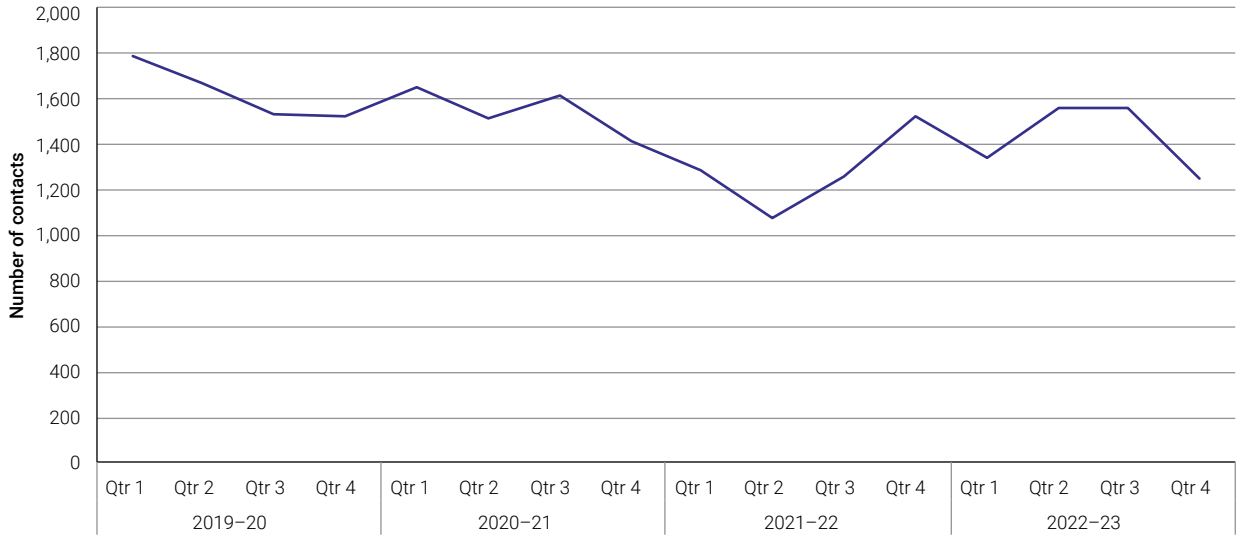
4.1.1 Complaints to the ACCC

Consumers and small businesses contact the ACCC about a wide range of issues. The ACCC is not a complaint-handling body and does not resolve individuals' complaints. The ACCC focuses on situations that may impact vulnerable consumers, harm the competitive process, or result in widespread consumer or small business detriment. Individuals may be referred to dispute-handling organisations, such as the Telecommunications Industry Ombudsman (TIO), that are better placed to assist.

The ACCC also uses information received in complaints to help identify issues for further investigation that may have industry-wide applications.

During 2022–23, the ACCC received a total of 5,705 complaints relating to telecommunications matters, which is a 10.8% increase from 2021–22. Figure 28 below illustrates the trend.

Figure 28: Communications-related complaints to the ACCC between 2019–20 and 2022–23



As shown in Table 1 below, complaints in several individual categories rose in 2022–23 compared to the previous year. Approximately 74% of these complaints were referred to other agencies, mainly to the TIO and state-based agencies that are tasked with resolving consumer complaints and investigating issues outside of the ACCC's remit.

Table 1: ACCC complaints by conduct type in 2021–22 and 2022–23

Type of conduct	Number of complaints 2021–22	Number of complaints 2022–23
18 – Misleading or deceptive conduct	2,188	2,493
54 – Guarantee as to acceptable quality	1,557	1,769
General – No CCA Issue	825	1,033
36 – Wrongly accepting payment	627	727
29(1)(m) – False rep: Exclusion or effect of any condition, warranty, guarantee, right or remedy	294	468
29(1)(b) – False representations (services – standard, quality, value or grade)	419	271
60 – Guarantee as to due care and skill	219	248
29(1)(i) – False representation price	129	195
29(1)(a) – False representations goods – standard, quality, value, grade, composition, style etc.	166	191
56–57 – Guarantee relating to the supply of goods by description, sample or demonstration	125	108

Table 2 shows that complaints against most providers generally decreased in 2022–23. However, Optus had a significant increase in the number of complaints, which we understand were linked to a data breach that occurred in late 2022.

Table 2: Number of contacts by telecommunications provider in 2021–22 and 2022–23

Telecommunications provider	Number of complaints 2021–22	Number of complaints 2022–23
Optus	568	891
Telstra Group (Including Belong)	983	752
TPG Internet (including Vodafone and iiNet)	438	451
Aussie Broadband	30	32
Dodo Australia	47	34
Exetel	11	23
NBN Co	119	46
Spintel	25	22
Superloop Broadband	15	20
Boost Mobile	29	17

For other telecommunications complaints data, see the Australian Communications and Media Authority's 2022–23 complaints data and TIO's 2023 Annual Report.

4.2 Regulated access to telecommunications

4.2.1 Declarations and access determinations

Combined declared services inquiry

On 31 May 2023, the ACCC commenced a public inquiry into whether 9 wholesale telecommunication services that support the supply of broadband, voice and data transmission services should continue to be declared.[72]

The ACCC has the power to declare telecommunications services if it is satisfied that doing so would promote the long-term interests of end-users.

If a service is 'declared', the supplier of that service must allow other providers to access it upon request. The ACCC can also set price and non-price terms and conditions of access to declared services.

The inquiry will consider whether ongoing regulation of these declared services promotes the long-term interests of end-users and if any changes to these declarations are appropriate. In particular, the inquiry will consider the impact of market development such as the completion of the NBN, and other technological changes that have occurred since the declarations of these services were last considered.

SBAS final access determination inquiry

In July 2021, the ACCC commenced a public inquiry to make a final access determination for the SBAS, following its decision to declare the service. The ACCC issued an interim access determination for the SBAS which applies until a final access determination is made and maintains current regulated price and non-price terms.

During 2021, the ACCC published a discussion paper for comment and extended the inquiry until 19 July 2022. In October 2022, the ACCC released a draft decision for comment and extended the current interim access determination.

On 23 March 2023, the ACCC released an exposure draft of its SBAS access determination for comment. On 13 July 2023, the ACCC decided to extend the period for making a new SBAS access determination for a further 6 months until 19 January 2024.[73] The ACCC extended the inquiry due to uncertainty about future regulated NBN access prices. This was while the review of NBN Co's SAU variation remained ongoing. The ACCC intends to finalise the SBAS access determination now that there is greater certainty about future regulated NBN access prices.

4.2.2 National broadband network

SAU variation consultation

The assessment of NBN Co's SAU which sets out certain price and non-price terms of access, has been an ongoing project since the middle of 2021. We have consulted extensively with industry during this process and discussions have helped to inform our final decision to accept NBN Co's SAU in October 2023. This engagement facilitated open discussion of issues and concerns and resulted in

72 ACCC, 'Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service', 31 May 2023, accessed 19 November 2023.

73 ACCC, 'Superfast broadband access service (SBAS) final access determination inquiry 2021', 13 July 2021, accessed 14 November 2023.

progressive improvement to NBN Co's SAU variation proposals which will deliver positive benefits to end-users.

2021–22 LTRCM determination

The Long Term Revenue Constraint Methodology (LTRCM) process applies during the Initial Regulatory Period under the SAU. The Initial Regulatory Period ended on 30 June 2023 and NBN Co's 2022–23 LTRCM proposal will be the last such proposal under the SAU. The LTRCM allows NBN Co the opportunity to recover prudently incurred costs and sets several variables for the building block regulation covering NBN Co. The ACCC assesses NBN Co's proposed values of costs incurred according to the prudency and efficiency definition outlined in the SAU.

The ACCC made a final determination on NBN Co's LTRCM for the financial year 2021–22 in June 2023. The ACCC's final determination was to accept the regulatory information submitted by NBN Co under the original SAU for the 2021–22 financial year as satisfying the requirements outlined in the SAU.[74]

4.2.3 Superfast fixed line broadband networks

Carrier separation rules

The ACCC is responsible for administering the carrier separation rules in Part 8 of the *Telecommunications Act 1997.* These require superfast fixed line residential broadband networks to be operated on a wholesale-only basis unless the network operator obtains an exemption from the ACCC through electing to be bound by the ACCC's class exemption or giving the ACCC a functional separation undertaking.

In October 2022, we published industry guidance on the carrier separation rules to help network operators, property managers and other parties involved in deploying superfast fixed line networks to understand the rules, what steps they may need to take to comply with the rules, and how the ACCC will approach enforcing them.[75]

The ACCC can issue infringement notices or take action in the Federal Court seeking pecuniary penalties for non-compliance with the carrier separation rule. During 2022–23, our Part 8 compliance activities focussed on alleged discriminatory conduct and behaviour restricting competition and choice in the supply of retail fixed line broadband services. We remain concerned about the absence of retail competition on some non-NBN fixed line networks, including embedded networks, which can lead to poor consumer outcomes, including reduced service quality and reliability, higher prices and reduced customer service.

In the 2022–23 financial year, the ACCC published 9 elections to be bound by the ACCC's class exemption from the wholesale-only obligation.[76] The class exemption allows these superfast network operators to offer retail services over their own networks, subject to complying with the requirement to offer wholesale access on a non-discriminatory basis.

In June 2023, the ACCC consulted on a proposed standard functional separation undertaking from Myport Pty Ltd, trading as Gigafy. In September 2023, the ACCC gave Gigafy a Notice to vary its original undertaking and invited it to submit a varied undertaking to address concerns raised during consultation. Gigafy subsequently submitted a varied functional separation undertaking, which the ACCC accepted in November 2023 and will come into effect in February 2024.[77]

74 ACCC, 'NBN Co – Special Access Undertaking – LTRCM 2021–22', 4 November 2022, accessed 23 October 2023.

75 ACCC, 'Industry guidance on the carrier separation rules', October 2022, accessed 23 October 2023.

76 ACCC, 's.143A class exemption notices register', n.d., accessed 14 November 2023.

77 ACCC, 'Gigafy standard functional separation undertaking', 6 November 2023, accessed 14 November 2023.

4.3 Telstra's Structural Separation Undertaking and Migration Plan

4.3.1 Telstra's compliance with structural separation undertaking

The ACCC completed its assessment of Telstra's compliance with the Structural Separation Undertaking for 2021–22 and provided its report to the Minister for Communications. The ACCC published the report on its website on 10 May 2023, following its tabling in Parliament.[78]

Telstra's compliance with its obligations in 2021–22 was satisfactory overall. Many instances of Telstra's non-compliance with both Part C of the Undertaking and the Migration Plan occurred due to actions taken by Telstra to ultimately protect consumers from disconnection where no alternative service was available. The instances of non-compliance with the Migration Plan only reflect the scale of the migration process, and some were attributable to non-human processes.

There were no Force Majeure Events under the Telstra Migration Plan and no approved variations to the Telstra Migration Plan during 2022–23.

4.4 Monitoring and reporting

4.4.1 Mobile Infrastructure Report

The Mobile Infrastructure Report is an annual publication that provides analysis on the change in mobile infrastructure and coverage. The analysis is based on information collected from Optus, Telstra and TPG under the Infrastructure Record Keeping Rules. The Mobile Infrastructure Report is typically published alongside disclosure of the underlining data provided by the mobile network operators.

This report and the accompanying data disclosure is intended to provide transparency and accountability over the investments in mobile infrastructure that has occurred over time. This helps consumers in making informed choices in selecting mobile services and assist policy makers in considering measures that address mobile coverage issues.

The Mobile Infrastructure Report 2023 was published on 27 November 2023.[79]

4.4.2 Measuring Broadband Australia program reports

The ACCC's Measuring Broadband Australia reports provide Australian consumers with accurate and independent information about broadband speeds to assist their purchasing decisions. The reports increase transparency and encourage greater performance-based competition and better internet performance throughout the country.

Quarterly reports

The ACCC released 4 Measuring Broadband Australia reports in August 2022, December 2022, April 2023 and June 2023.

78 ACCC, 'Telstra's structural separation undertaking 2021–22', 10 May 2023, accessed 23 October 2023.

79 ACCC, 'Mobile Infrastructure Report', 27 November 2023, accessed 29 November 2023.

The April 2023 report examined online gaming latency for the first time and found games hosted on Australian servers provided a better experience compared to games hosted overseas.[80] The report showed that latency does not depend on the selected speed tier, which means that upgrading to a faster plan will not necessarily improve a consumer's gaming experience. However, consumers on fixed wireless connections experienced higher latency than those using fixed line technologies.

4.4.3 Regional Mobile Infrastructure Inquiry final report

The ACCC published the Regional Mobile Infrastructure Inquiry final report on 23 October 2023, following a 1-year long inquiry.[81] The ACCC provided the final report on the Inquiry to the Minister for Communications on 30 June 2023.

The ACCC was asked to consider several matters about access to mobile towers including:

- the costs of providing mobile towers
- the costs of accessing the land to locate towers
- how existing commercial arrangements for access to mobile towers are working
- how the current regulatory arrangements for access to mobile towers is working
- what drives demand for new towers and access to existing towers
- what affects decisions to provide greater mobile coverage
- what the implications are of the recent mobile tower sales from the mobile network operators (Telstra, Optus and TPG Telecom) to new infrastructure providers.

One of the ACCC's findings was that the current regulatory regime for access to towers is no longer fit for purpose. This is primarily because it does not apply evenly to new infrastructure providers.

The ACCC was also asked to consider whether temporary mobile roaming during natural disasters is feasible. This is where a consumer device could connect to any mobile network, regardless of the consumer's mobile provider, during a time of natural disaster or emergency. The ACCC found that temporary mobile roaming during natural disasters is technically feasible, however changes would be required to the mobile network operators' business processes, network and operational systems.

4.4.4 Record keeping rules

In December 2022, the ACCC released a consultation paper on the development of a record keeping rule for NBN Co regarding its service quality and network performance. The consultation period ended in February 2023. The ACCC has considered submissions and consulted extensively with NBN Co during 2023.[82] Following public consultation on a draft record keeping rule in late 2023, the ACCC expects to have a final record keeping rule and reporting arrangements for NBN Co in place by mid-2024.

80 ACCC, 'Measuring broadband Australia – report 20 – April 2023', April 2023, accessed 13 November 2023.

81 ACCC, 'Regional mobile infrastructure inquiry 2022–23', 23 October 2023, accessed 14 November 2023.

82 ACCC, 'Service quality and network performance record keeping rule for superfast broadband networks', 7 December 2022, accessed 14 November 2023.

4.5 Enforcement, compliance, mergers and authorisations

4.5.1 Telstra/TPG regional mobile deal

On 30 September 2022, the ACCC released a Statement of Preliminary Views regarding Telstra and TPG's proposed regional network sharing arrangement. This document summarised issues raised during the initial consultation process, outlined the ACCC's preliminary views about the proposed arrangements, and identified issues which it sought further information on.

Under the statutory test, the ACCC must not grant merger authorisation unless it is satisfied the proposed arrangements would not be likely to substantially lessen competition, or that the likely public benefits from the arrangements would outweigh the likely public detriments.

On 21 December 2022, the ACCC decided not to authorise the proposed regional mobile network arrangement between Telstra and TPG. The ACCC examined the proposed arrangements in considerable detail. There were some benefits, but the ACCC considered that the proposed arrangements would likely lead to less competition in the longer term. This would leave Australian mobile users worse off over time, in terms of price and regional coverage.[83]

On 23 December 2022, each of Telstra and TPG notified the ACCC that they have sought review of the ACCC's decision in the Australian Competition Tribunal (Tribunal). On 21 June 2023 the Tribunal affirmed the ACCC's determination dismissing the application for merger authorisation lodged by Telstra and TPG.[84]

4.5.2 Investigations

In 2022–23, the ACCC commenced:

- 1 investigation under the Telecommunications Act relating to the telecommunications sector, and
- 3 investigations under the Australian Consumer Law relating to the telecommunications sector, of which 1 remained ongoing as at 30 June 2023.

4.5.3 Litigation

Telstra/Optus/TPG misrepresentations

On 11 November 2022, Telstra, Optus and TPG were ordered by the Federal Court to pay penalties totalling $33.5 million after they each admitted making false or misleading representations to consumers when promoting certain NBN internet plans, in the proceedings brought by the ACCC.[85]

The false or misleading statements representations made by the 3 providers affected nearly 120,000 consumers in total and were made for at least 12 months in 2019 and/or 2020.

83 Further information on the ACCC's decision can be found here.

84 A copy of the Tribunal's Reasons for Determination are available on the Tribunal's website: Australian Competition Tribunal, 'Applications by Telstra Corporation Limited and TPG Telecom Limited (No 2) [2023] ACompT 2', 21 June 2023, accessed 13 November 2023.

85 ACCC, 'Telcos to pay a total of $33.5 million for misleading statements about NBN maximum speeds', 11 November 2022, accessed 29 November 2023.

Telstra was ordered to pay $15 million, Optus was ordered to pay $13.5 million, and TPG was ordered to pay $5 million in penalties for breaching Australian Consumer Law by making false or misleading statements in relation to their 50 Mbps or 100 Mbps NBN FTTN plans.

Telstra (Belong)

On 6 December 2022, the ACCC instituted proceedings against Telstra for allegedly making false or misleading representations about upload speeds to residential broadband customers of its sub-brand, Belong.[86]

The ACCC alleges that Telstra failed to notify customers of the reduction in upload speeds, after migrating nearly 9,000 customers who were on a Belong NBN plan with a maximum download speed of 100 Mbps and maximum upload speed of 40 Mbps, to a service with a maximum upload speed of 20 Mbps.

4.6 Advice, advocacy and consumer education

4.6.1 Spectrum allocation limits advice

Request for advice – 3.8–3.95 GHz apparatus licences

Spectrum is a scarce and essential input to the provision of wireless services. The ACCC has an interest in ensuring that spectrum allocations promote competition in downstream markets that rely on spectrum as an input.

On 8 February 2023, the ACMA wrote to the ACCC requesting advice on allocation limits for the allocation of area-wide apparatus licences in the 3.8–3.95 GHz band (3.8 GHz band) in metropolitan and regional areas.

On 23 March 2023, the ACCC wrote to the ACMA setting out its preliminary views on allocation limits for the 3.8 GHz band licences.

On 20 June 2023, the ACMA released a consultation paper on the 3.8 GHz band licences seeking views on a range of matters relevant to the allocation of this band, including allocation limits. The ACCC relied on submissions in response to the ACMA's consultation paper in preparing its advice to the ACMA.

The ACCC provided its advice to the ACMA on 29 September 2023.[87]

4.6.2 Expiring spectrum licences submission

In May 2023, the ACMA released a consultation paper seeking stakeholders' views on a range of issues relating to its approach in assessing the future arrangements for spectrum subject to licenses that are due to expire between 2028 and 2032.[88]

In July 2023, the ACCC made a submission to the ACMA's consultation paper.

86 ACCC, 'Telstra in court for alleged misleading representations about Belong broadband speed', 6 December 2022, accessed 29 November 2023.

87 Further information on this allocation limits process can be found here.

88 ACMA, 'Proposed approach to expiring spectrum licences', n.d., accessed 13 November 2023.

4.6.3 Inquiry into multi-carrier regional mobile infrastructure

In November 2022, the ACCC made a submission to the House of Representatives Standing Committee on Communications and the Arts into co-investment in multi-carrier regional mobile infrastructure.[89] The ACCC appeared before the Committee on 26 May 2023.[90]

4.6.4 Telecommunications Consumer Protections Code

In June 2023, the ACCC made a submission to the Telecommunications Consumer Protections Code 2024 Review Discussion Paper.[91] The submission set out the ACCC's position on telecommunication consumer protections priorities that should be incorporated into the code, as well as advocating for a stronger consumer safeguards regulatory framework to reflect the essential nature of telecommunications services.

4.6.5 Other ACCC submissions

In 2023, the ACCC provided short submissions to the following public inquiries:

- the Department of Infrastructure, Transport, Regional Development, Communications and the Arts Thematic Review of the Customer Service Guarantee[92]
- the Comms Alliance consultation on the revised C540:2023 Local Number Portability Industry Code.[93]

89 House of Representatives Standing Committee on Communications and the Arts, 'Inquiry into multi-carrier regional mobile infrastructure – Submissions', November 2022, accessed 23 October 2023.

90 House of Representatives Standing Committee on Communications and the Arts, 'Inquiry into multi-carrier regional mobile infrastructure – Public Hearings', November 2022, accessed 23 October 2023.

91 Communications Alliance Ltd., 'Telecommunications Consumer Protections (TCP) Code Review 2024', n.d., accessed 13 November 2023.

92 ACCC, 'Thematic review of the Customer Service Guarantee ACCC Submission', March 2023, accessed 29 November 2023.

93 Communications Alliance Ltd., 'C540:2023 Local Number Portability Industry Code', n.d., accessed 19 November 2023.

5. Appendices

5.1 Other competition indicators

5.1.1 Annual price changes (%) – advertised price

Table 3: Advertised price changes (%) for the 25th percentile from 2018–19 to 2022–23

	2018–19	2019–20	2020–21	2021–22	2022–23
NBN	9.9	6.1	0.1	7.2	0.0
Non-NBN	0.0	8.3	0.0	7.7	7.2
Total fixed line	0.0	15.0	1.4	0.1	7.1
Post-paid mobile phone	-0.4	0.4	0.0	0.0	0.0
Pre-paid mobile phone	-0.4	-13.9	16.2	-19.7	7.1
Total mobile phone	-0.4	-13.9	16.6	-4.0	4.1
Mobile network operators				0.0	0.0
Sub-brands				-19.7	0.0
Mobile virtual network operators				0.0	0.0
Mobile broadband	17.5	-14.9	0.0	0.0	0.0

Source: ACCC estimates based on information from RSP websites.

Table 4: Advertised price changes (%) for the median from 2018–19 to 2022–23

	2018–19	2019–20	2020–21	2021–22	2022–23
NBN	12.9	1.2	6.3	4.7	6.6
Non-NBN	0.0	7.2	6.6	0.1	12.5
Total fixed line	7.1	5.9	0.7	10.0	6.8
Post-paid mobile phone	-9.8	-2.8	2.9	23.6	-10.1
Pre-paid mobile phone	-1.7	-6.5	0.0	0.0	6.7
Total mobile phone	-10.3	-2.0	2.1	0.0	0.0
Mobile network operators				10.0	5.5
Sub-brands				0.0	3.3
Mobile virtual network operators				0.0	0.0
Mobile broadband	6.8	-12.5	12.9	-11.5	0.0

Source: ACCC estimates based on information from RSP websites.

Table 5: Advertised price changes (%) for the 75th percentile from 2018–19 to 2022–23

	2018–19	2019–20	2020–21	2021–22	2022–23
NBN	0.0	0.0	11.1	9.0	4.6
Non-NBN	-11.0	12.5	0.0	11.1	10.0
Total fixed line	0.0	0.1	11.1	5.1	7.6
Post-paid mobile phone	-9.1	0.0	0.0	16.0	-9.5
Pre-paid mobile phone	0.0	-6.6	3.4	-11.1	12.5
Total mobile phone	-0.2	-1.8	1.8	7.4	-6.7
Mobile network operators				7.7	-2.9
Sub-brands				0.0	0.0
Mobile virtual network operators				12.5	-11.1
Mobile broadband	0.0	-16.8	10.2	-9.1	0.0

Source: ACCC estimates based on information from RSP websites.

5.1.2 Annual price points ($) – advertised price

Table 6: Annual price points ($) for the 25th percentile from 2018–19 to 2022–23

	2018–19	2019–20	2020–21	2021–22	2022–23
NBN	$65.90	$69.95	$69.99	$75.00	$75.00
Non-NBN	$59.99	$64.95	$64.95	$69.95	$74.98
Total fixed line	$60.00	$69.00	$69.95	$70.00	$75.00
Post-paid mobile phone	$24.90	$24.99	$25.00	$25.00	$25.00
Pre-paid mobile phone	$24.90	$21.43	$24.90	$20.00	$21.43
Total mobile phone	$24.90	$21.43	$24.99	$24.00	$24.99
Mobile network operators			$40.00	$40.00	$40.00
Sub-brands			$24.90	$20.00	$20.00
Mobile virtual network operators			$20.00	$20.00	$20.00
Mobile broadband	$23.50	$20.00	$20.00	$20.00	$20.00

Source: ACCC estimates based on information from RSP websites.

Table 7: Annual price points ($) for the median from 2018–19 to 2022–23

	2018–19	2019–20	2020–21	2021–22	2022–23
NBN	$79.00	$79.95	$85.00	$89.00	$94.90
Non-NBN	$69.99	$75.00	$79.95	$80.00	$90.00
Total fixed line	$75.00	$79.45	$80.00	$88.00	$94.00
Post-paid mobile phone	$36.00	$35.00	$36.00	$44.50	$40.00
Pre-paid mobile phone	$34.39	$32.14	$32.14	$32.14	$34.29
Total mobile phone	$35.00	$34.29	$35.00	$35.00	$35.00
Mobile network operators			$50.00	$55.00	$58.00
Sub-brands			$29.99	$30.00	$31.00
Mobile virtual network operators			$30.00	$30.00	$30.00
Mobile broadband	$40.00	$35.00	$39.50	$34.95	$34.95

Source: ACCC estimates based on information from RSP websites.

Table 8: Annual price points ($) for the 75th percentile from 2018–19 to 2022–23

	2018–19	2019–20	2020–21	2021–22	2022–23
NBN	$90.00	$90.00	$100.00	$109.00	$114.00
Non-NBN	$80.00	$90.00	$90.00	$99.97	$110.00
Total fixed line	$89.95	$90.00	$99.95	$105.00	$113.00
Post-paid mobile phone	$50.00	$50.00	$50.00	$58.00	$52.50
Pre-paid mobile phone	$49.90	$46.61	$48.21	$42.86	$48.21
Total mobile phone	$49.90	$49.00	$49.90	$53.57	$50.00
Mobile network operators			$65.00	$70.00	$68.00
Sub-brands			$39.99	$40.00	$40.00
Mobile virtual network operators			$40.00	$45.00	$40.00
Mobile broadband	$60.00	$49.90	$55.00	$50.00	$50.00

Source: ACCC estimates based on information from RSP websites.

5.2 Advertised price approach to price monitoring

The advertised price approach measures changes in the nominal prices of plans offered to consumers. However, it does not take into account changes in product features, such as higher data allowances or faster download spends, over time. It is a reflection of what consumers are actually paying.

Data on market offers are drawn annually from Critical Information Summaries, which retailers must publish on their website.[94]

Retailer plans are then assembled in ascending order according to price, with 3 price points identified:

- the 25th percentile (the lower price point)
- the median
- the 75th percentile (upper price point).

These price points act as proxies for entry-level, mid-range and higher-range consumers respectively. Accordingly, they provide an indication of how different groups are impacted by changes in advertised prices over time.

It should be noted that NBN and non-NBN fixed broadband plans that are bundled with VoIP and an entertainment service such as Fetch TV or Foxtel have been excluded from the pricing analysis in this report. These 'triple play' product bundles are in some instances very highly priced and only serve a niche market of consumers. Including these plans would tend to inflate the measures of advertised prices and not be representative of the prices that most consumers pay.

94 Prices in the Critical Information Summaries may not reflect prices predominantly advertised on the website of service providers due to temporary discounting.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