

<b>Case Reference</b>	R/E/I/107
<b>Title</b>	OpenNet's Failure to Comply with Condition 7 of OpenNet's Facilities-Based Operations Licence - Universal Service Obligation
<b>Date of IDA's Decision</b>	14 November 2013
<b>Licencee</b>	OpenNet Pte Ltd (" <b>OpenNet</b> ")
<b>Case Summary</b>	<p>Although OpenNet fulfilled its 95% rollout obligation in mid 2012, OpenNet had faced some delay in deploying fibre to the remaining homes and businesses because it took longer than expected to work out the rollout arrangements with its subcontractor. The parties eventually made arrangements to continue the rollout to the remaining homes and businesses.</p> <p>OpenNet was only able to allow its customers (i.e., the Operating Companies) to order fibre services to the affected homes and businesses after it had completed its fibre deployment to them.</p> <p>Hence, OpenNet was unable to provide its fibre services to certain addresses in Singapore and connected islands upon the request of its customers, as it is required to do under its Universal Service Obligation (or Condition 7<sup>1</sup> of its Facilities-Based Operations Licence ("<b>FBO</b>")) which came into effect on 1 January 2013.</p> <p>As of 1 July 2013, OpenNet enabled the provisioning of OpenNet's fibre services to any and all addresses.</p>
<b>IDA's Determination</b>	<p>IDA finds OpenNet to be in contravention of Condition 7 of its FBO Licence during the period 1 January 2013 to 30 June 2013 ("<b>Affected Period</b>").</p> <p>In determining the enforcement action against OpenNet, IDA took into consideration the following:</p>

<sup>1</sup> Pursuant to Condition 7 of OpenNet's Facilities-Based Operations Licence, OpenNet shall

*"establish, install, maintain and operate the Systems and shall provide, through or with the use of the Systems, the Mandated Services to any Qualifying Person in Singapore who requests the provision of such services to any of the following locations in mainland Singapore and connected Singapore islands:*

- (a) all Physical Addresses; and*
- (b) all other locations as may be reasonably requested*

*on and from 1 January 2013."* (the "**Universal Service Obligation**").

(a) The Universal Service Obligation is a fundamental licence obligation to ensure the availability of Next Generation Nationwide Broadband Network (“**Next Gen NBN**”) services to all end users in Singapore and its connected islands.

(b) About 120,000 Residential Premises and about 760 Non-Residential Buildings were unable to obtain services over the Next Gen NBN during the Affected Period. In addition, OpenNet’s failure to meet its Universal Service Obligation also adversely impacted the industry players (i.e., operating companies who take services at the wholesale level from OpenNet and RSPs providing fibre based services at the retail level to residential and business customers) that rely on the Next Gen NBN to deliver their services.

(c) OpenNet was aware of the Universal Service Obligation since a very early date (1 April 2009). Yet, OpenNet failed to carry out its duty and responsibility, even though it could do so, in a timely manner, such that it could deliver on its Universal Service Obligation when it commenced on 1 January 2013.

(d) The need to ensure that licensees are effectively deterred from disregarding their licence and other regulatory obligations. The Universal Service Obligation licence condition is imposed to safeguard the public interest. Non-compliance with this obligation will adversely impact end users as well as the industry at large.

(e) While OpenNet was not in a position to provide services over the Next Gen NBN to some premises and buildings during the Affected Period, IDA noted that services over the Next Gen NBN were progressively made available to end users in these buildings as fibre was progressively deployed to these buildings.

(f) Among the affected homes and businesses, there are premises or buildings that had not received their Temporary Occupation Permit (“**TOP**”) or had attained TOP status only very late during the Affected Period (“**TOP Buildings**”). IDA took into consideration that residents might not have occupied the TOP Buildings, and that demand for Next Gen NBN services from some of the TOP Buildings during the Affected Period may not have been high.

Taking into consideration all of the above, IDA imposed a financial penalty of **S\$550,000** on OpenNet for its contravention of Condition 7 of its Facilities-Based Operations Licence.