

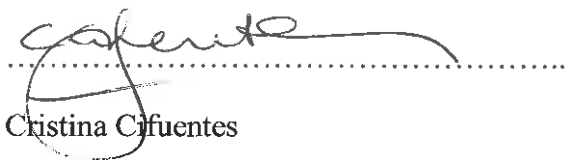


ACCC Broadband Performance Monitoring and Reporting Record Keeping and Reporting Rules

Competition and Consumer Act 2010

The AUSTRALIAN COMPETITION AND CONSUMER COMMISSION makes the following instrument under subsection 151BU(1) of the *Competition and Consumer Act 2010*.

Dated 15th December 2017


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Cristina Cifuentes

Commissioner

Australian Competition and Consumer Commission

TITLE

- 1 These rules made by the Australian Competition and Consumer Commission pursuant to subsection 151BU(1) of the *Competition and Consumer Act 2010 (Cth)* may be referred to as the ACCC Broadband Performance Monitoring and Reporting Record Keeping and Reporting Rules.

COMMENCEMENT AND EXPIRY

- 2 These Rules shall take effect from 18 December 2017 and expire on 19 December 2021.

APPLICATION

- 3 These Rules apply to NBN Co Limited (ACN 136 533 741).

INTERPRETATION

- 4 The following terms have the meaning set out in this clause.
 - (a) **'Access Seeker'** has the same meaning as in section 152AG of the CCA.
 - (b) **'ACCC'** means the Australian Competition and Consumer Commission.
 - (c) **'AVC'** means Access Virtual Circuit as defined in an applicable Standard Form of Access Agreement.
 - (d) **'Broadband Performance Monitoring and Reporting Program'** – means the Broadband Performance Monitoring and Reporting Program announced by the ACCC in April 2017.

- (e) **'Broadband Performance Monitoring and Reporting Service'** means a Superfast Carriage Service provided by a Carriage Service Provider over the fixed-line network of NBN Co to a residential customer, which is notified to NBN Co by the ACCC in accordance with Rule 5.
- (f) **'Carriage Service Provider'** has the same meaning as in section 87 of the *Telecommunications Act 1997* (Cth).
- (g) **'CCA'** means the *Competition and Consumer Act 2010* (Cth).
- (h) **'CVC'** means Connectivity Virtual Circuit as defined in an applicable Standard Form of Access Agreement.
- (i) **'Eligible Party Identification Code'** means an Eligible Party Identification Code issued by Communications Alliance Ltd to a Carriage Service Provider.
- (j) **'FTTP'** means the fibre to the premises network used by NBN Co to supply the product defined as the NBN Co Ethernet Bitstream Service over fibre in an applicable Standard Form of Access Agreement.
- (k) **'FTTN'** means the fibre to the node network used by NBN Co to supply the product defined as the NBN Co Ethernet Bitstream Service over fibre and copper in an applicable Standard Form of Access Agreement.
- (l) **'FTTB'** means the fibre to the basement network used by NBN Co to supply the product defined as the NBN Co Ethernet Bitstream Service over fibre and copper in an applicable Standard Form of Access Agreement.
- (m) **'NBN Co'** means NBN Co Limited (ACN 136 533 741) (NBN Co).
- (n) **'Reporting Date'** means the last day of a calendar quarter (i.e. 31 March, 30 June, 30 September, 31 December).
- (o) **'Rules'** means the ACCC Broadband Performance Monitoring and Reporting Record Keeping and Reporting Rules.
- (p) **'Standard Form of Access Agreement'** refers to NBN Co's standard forms of access agreement, published on its website, that relate to the supply of the relevant products and services to Access Seekers.
- (q) **'Superfast Carriage Service'** has the same meaning as in s142A of the *Telecommunications Act 1997* (Cth).

RECORD KEEPING RULES

- 5 Once each calendar quarter, and by no later than the last calendar day of the first month of that quarter, the ACCC may notify NBN Co that the Superfast Carriage Services provided by Carriage Service Providers to particular customers are Broadband Performance Monitoring and Reporting Services. The ACCC may only do so:
 - (a) in respect of Superfast Carriage Services provided to residential customers which have:
 - (i) volunteered to be active participants in the Broadband Performance Monitoring and Reporting Program; and
 - (ii) have provided written consent for the disclosure of data relating to their Superfast Carriage Service to the ACCC for the purpose of the Broadband Performance Monitoring and Reporting Program; and
 - (b) in respect of a maximum of 4,000 residential customers per calendar quarter.
- 6 For each Broadband Performance Monitoring and Reporting Service, NBN Co must establish and maintain an electronic record containing the following information:
 - (a) the Carriage Service Provider which provides the Broadband Performance Monitoring and Reporting Service to the relevant residential customer;
 - (b) the Eligible Party Identification Code of the Carriage Service Provider which provides the Broadband Performance Monitoring and Reporting Service to the relevant residential customer;
 - (c) the relevant access network technology;
 - (d) the relevant service class, as defined by NBN Co from time to time;
 - (e) the relevant Service Area Module (SAM);
 - (f) the relevant CVC and AVC traffic class, as defined by NBN Co from time to time;
 - (g) the relevant wholesale speed tier;
 - (h) actual wholesale line speed data (in respect of FTTB and FTTN services only) as measured by NBN Co;
 - (i) maximum wholesale line speed data (in respect of FTTB and FTTN services only) as measured by NBN Co; and
 - (j) line / trouble ticket status of the relevant premise of the relevant residential customer.
- 7 A record made under Rule 6 must be kept by NBN Co for 12 months from the date on which the record is made.

REPORTING REQUIREMENTS

- 8 For each calendar quarter after the ACCC first notifies NBN Co of Broadband Performance Monitoring and Reporting Services under Rule 5, NBN Co must provide the ACCC with a report containing the information required by Rule 6 as at the Reporting Date.
- 9 A report under Rule 6 must be:
 - (a) provided by NBN Co to the ACCC within 28 calendar days of the Reporting Date; and
 - (b) prepared and submitted to the ACCC electronically as a Microsoft Excel file in the format prescribed by the ACCC and annexed at the **Attachment**.
- 10 The report specified under Rule 6 must be provided to the ACCC by email or by another mode of delivery approved in writing by the ACCC. Such reports provided by email must be sent to the broadbandperformance@acc.gov.au email address.
- 11 The ACCC:
 - (a) may amend the format referred to in Rule 9(b); and
 - (b) must provide NBN Co with adequate notice of any such amendment.

