

Aussie Broadband Pty Ltd  
PO Box 3351  
Gippsland Mail Centre  
Victoria 3841  
P 1300 161 625  
E [info@aussiebroadband.com.au](mailto:info@aussiebroadband.com.au)



[aussiebroadband.com.au](http://aussiebroadband.com.au)

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The Australian Consumer & Competition Commission  
By email: [telcoseparationrules@acc.gov.au](mailto:telcoseparationrules@acc.gov.au)

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Dear Communications Group,

### Information that may be disclosed by a retail business unit to a wholesale business unit

Aussie Broadband Limited (**Aussie**) welcomes the opportunity to provide our feedback on the deemed functional separation undertaking instrument.

Pursuant to subsection 151A (13) of the *Telecommunication Act 1997*, section 9 of the ACCC's *Telecommunications (Deemed Functional Separation Undertaking) Determination 2020 (the Determination)* permits specified information provided by carriers and carriage service providers to a corporation's retail business unit to be disclosed to, or obtained, accessed and used by, its wholesale business unit, provided that a standard functional separation undertaking is in force.

The Determination prohibits the disclosure of information from a corporation's retail unit to its wholesale unit as follows:

- 7(10) The corporation will ensure that information provided to the corporation's retail business unit by a carrier or carriage service provider, other than information of a kind specified in section 9 of this Determination, is not disclosed to the corporation's wholesale business unit.
- 7(11) The corporation will ensure that the corporation's wholesale business unit does not obtain, access or use information, other than information of a kind specified in section 9 of this Determination, provided to the corporation's retail business unit by a carrier or carriage service provider.

Aussie Broadband agrees with the proposed exemption of non-disclosure obligations in the draft Determination, as cited below.

### 9 Determination of kinds of information

Information that constitutes:

- (a) wholesale pricing;
- (b) other terms and conditions; and
- (c) network coverage information;

as offered by carriers and carriage service providers to a corporation's retail business unit for the purpose of enabling the corporation's retail business unit to obtain equivalent offers from its wholesale business unit, is determined, pursuant to subsection 151A(13) of the Act, to be specified information for the purpose of subsections 7(10) and 7(11).

Aussie Broadband considers the following information as material to make and enter into commercial contracts.

- Wholesale Master Service Agreements (**MSA**) and associated documents, including service schedules and price lists.
  - An MSA can hold more data than 9(a) and 9(b), for example, security, maintenance and maintenance windows, service level agreements, business continuity arrangements.
- Maps of current and proposed network coverage.
  - Current and proposed network supplements 9(c) as future coverage is a material factor in entering into a contract.
- Discounts, including terms and conditions and time frames of the discount.
  - While this may be covered in 9(a) and 9(b); the increased documented clarity will assist in making commercial decisions.
- Information about the underlying ownership of networks.
  - This information will complement 9(c) in understanding the network coverage.
- Information about wholesale products and services available from other carriers and carriage service providers.
  - To ensure a robust commercial decision-making process.

Thank you for considering our response, and please do not hesitate to contact me for further information.

Warm regards,



**Andrew Webster**  
Head of Risk and Compliance  
Aussie Broadband Limited