



Proposed amendments to Telecommunications (Deemed Functional Separation Undertaking) Determination 2020

Consultation paper

9 November 2023

Overview

On 25 August 2020, the government amended the carrier separation rules in the *Telecommunications Act 1997* (**Telecommunications Act**). The amended rules enable vertically integrated superfast network operators serving residential customers to offer wholesale and retail services and to operate on a functionally separated basis (rather than a structurally separated basis).

In particular, Part 8 of the Telecommunications Act allows superfast network operators to operate both wholesale and retail businesses, but at arm's-length from each other and subject to certain requirements. This is intended to provide greater commercial flexibility for superfast network operators and promote infrastructure-based competition.

Unless they have fewer than 12,000 residential customers and elect to be bound by the [Class Exemption](#) that the ACCC made on 25 August 2020, superfast network operators that wish to offer both retail and wholesale services must either:

- elect to be subject to a deemed functional separation undertaking that has been made by the ACCC, if eligible, or
- submit a customised standard functional separation undertaking, given by a single corporation, or joint functional separation undertaking, given by two or more corporations, for approval by the ACCC.

On 16 October 2020, the ACCC made the [Telecommunications \(Deemed Functional Separation Undertaking\) Determination 2020](#) (the **deemed functional separation undertaking**). The deemed functional separation undertaking is only available for networks supplying superfast services to no more than 50,000 residential customers.¹

The deemed functional separation undertaking prescribes a set of model terms for a standard functional separation undertaking that an eligible network operator may elect to be bound by. In summary, a network operator who elects to be bound by the deemed functional separation undertaking is required to:

- maintain a single wholesale business unit and a single retail business unit
- maintain arm's-length functional separation between these business units, and
- publish the terms and conditions on which the wholesale business unit will supply access to local access line services.

The deemed functional separation undertaking also specifies information provided by carriers and carriage service providers to a network operator's retail business unit that may be disclosed to its wholesale business unit.²

On 3 March 2021, the ACCC made the [Telecommunications \(Deemed Functional Separation Undertaking\) Amendment Determination 2021 \(No.1\)](#) which amended the permitted information sharing provisions in the deemed functional separation undertaking to align them with the permitted information sharing provisions in the determinations issued by the ACCC for standard and joint functional separation undertakings.

The ACCC is now proposing to make a second amendment to the deemed functional separation undertaking. The ACCC seeks comments from interested stakeholders on the

¹ Section 6 of the [Telecommunications \(Deemed Functional Separation Undertaking\) Determination 2020](#).

² Subsection 151A(13) of the Telecommunications Act and section 9 of the Telecommunications (Deemed Functional Separation Undertaking) Determination 2020.

draft Amendment Determination provided at **Annexure A** to this consultation paper, which includes stronger obligations to ensure that an eligible network operator's wholesale and retail business units are operated on an arm's-length basis. The draft Amendment Determination also includes enhanced transparency and reporting obligations that will allow for more effective regulatory oversight by the ACCC.

In deciding whether to accept a standard functional separation undertaking, pursuant to subsection 151J(2) of the Telecommunications Act, the ACCC must have regard to whether the undertaking would promote the long-term interests of end-users (**LTIE**) and such other matters that it considers relevant. The ACCC has been guided by the LTIE in the development of the Amendment Determination, given that the deemed functional separation undertaking offers a set of model terms for eligible corporations to elect to be bound by as though the corporation had submitted a functional separation undertaking pursuant to section 151A of the Telecommunications Act.

The ACCC considers that the proposed amendments will promote the LTIE by promoting retail level competition and providing wholesale customers greater assurance that the corporation bound by the deemed functional separation undertaking is operating its wholesale and retail business units on an arm's-length basis. In addition, these proposed amendments will enable the ACCC to better monitor compliance with the deemed functional separation undertaking.

A compilation draft of the proposed amendments to the deemed functional separation undertaking is provided at **Annexure B** to this consultation paper.

Background

The carrier separation rules require controllers of a line capable of supplying superfast carriage services serving residential customers to supply wholesale access on non-discriminatory terms and either be structurally separated or operate according to a functional separation undertaking unless they are covered by a range of exceptions (the separation requirements).

There are two types of functional separation undertakings that can be submitted to the ACCC – a standard functional separation undertaking given by a single corporation; and a joint functional separation undertaking given by two or more corporations.

Section 151B of the Telecommunications Act gives the ACCC the power to make a determination whereby corporations included in a specified class of corporations can elect to be bound by the terms of the determination instead of submitting a standard or joint functional separation undertaking for approval under section 151A or 151C of the Telecommunications Act.

The deemed functional separation undertaking made by the ACCC is intended to reduce the cost burden of functional separation on smaller network operators that supply superfast broadband services. Network operators that elect to be bound by the terms of the deemed functional separation undertaking do not have to go to the expense of preparing customised individual undertakings themselves.

The deemed functional separation undertaking is only available for network operators supplying superfast services to no more than 50,000 residential customers via local access lines. The deemed functional separation undertaking is also only available for single corporations (i.e., a corporate group will require a joint functional separation undertaking).

Proposed amendments

The ACCC is proposing to amend the deemed functional separation undertaking to include enhanced transparency and reporting measures and stronger commitments to ensure that the network operator's retail and wholesale business units are operated on an arm's-length basis.

The proposed amendments will enhance arm's-length functional separation arrangements between the wholesale and retail business units and allow for better ACCC oversight. These are key issues the ACCC takes into account in assessing any proposed standard functional separation undertaking, noting, for example, the commitments Myport Pty Ltd, trading as Gigafy, has provided in its [varied standard functional separation undertaking](#) that the ACCC accepted on 6 November 2023. Below we provide an overview of the provisions in the draft Amendment Determination at Annexure B.

Documentation and publication of price related terms and conditions *(subsections 7(3A) and 7(3B) and subsections 7(6A), 7(6B) and 7(6C))*

The draft Amendment Determination includes additional provisions in relation to the documentation and publication of price related terms and conditions by the corporation that elects to be bound by the undertaking. These will provide greater assurance that the corporation is operating its wholesale and retail business units on an arm's-length basis.

These provisions relate to the form and currency of documentation that the corporation would be required to keep and publish in relation to price related and other terms and conditions on which the corporation's wholesale business unit supplies local access line services to the corporation's retail business unit.

The proposed obligations require the corporation to prepare this documentation in a manner that allows a direct comparison between the price related terms on which the corporation's wholesale business unit supplies the corporation's retail business unit and the price related terms on which the corporation's retail business unit supplies its retail customers.

In addition, the proposed obligations require the corporation to list each short-term and long-term discount, credit or rebate arrangement that the corporation's wholesale business unit has offered to the corporation's retail business unit, including the name of the arrangements, the relevant amounts, the qualifying conditions and the offer period.

The proposed obligations also require the corporation to update its pricing documentation each time that the corporation changes its wholesale or retail prices, including any short-term or long-term discounts or offers.

Use of the same customer interface *(subsection 7(12A))*

The draft Amendment Determination includes additional provisions in relation to the use of the same customer interface for all of the corporation's wholesale customers, including the corporation's retail business unit, and to provide the same functionality and access to the same set of local access lines.

The proposed obligations are intended to make clear for the avoidance of doubt that the customer interface must provide the same functionality for wholesale customers and the corporation's retail business unit in respect of local access line services and must provide wholesale customers with access to the same set of local access lines that the corporation provides to its retail business unit.

Nature of the compliance reports (*subsection 7(14A)*)

The draft Amendment Determination includes additional provisions in relation to the compliance reports that a corporation subject to the deemed functional separation undertaking must provide in accordance with subsection 7(14). These additional obligations will provide more effective regulatory oversight and give wholesale customers greater assurance that the corporation is operating its wholesale and retail business units on an arm's-length basis. It will also enable the ACCC to better monitor the corporation's compliance with the deemed functional separation undertaking and to enable the ACCC to request the corporation to report on any particular matters of concern.

The proposed additional obligations require the corporation to include a copy of each document setting out the terms and conditions on which the corporation's wholesale business unit supplied local access line services to the corporation's retail business unit, and each published wholesale form of agreement in effect during the reporting period.

Consultation and next steps

The ACCC requests written submissions on the ACCC's draft Amendment Determination provided at Annexure A to this consultation paper by no later than 7 December 2023. Stakeholders may email submissions to telcoseparationrules@accc.gov.au.

After considering submissions from interested parties, the ACCC will then decide whether to proceed to make the Amendment Determination.

ACCC consultation policy

To foster an informed and consultative process, all submissions will be considered as public submissions and will be posted on the ACCC's website. Interested parties wishing to submit commercial-in-confidence material to the ACCC should submit both a public and a commercial-in-confidence version of their submission. The public version of the submission should clearly identify the commercial-in-confidence material by replacing the confidential material with an appropriate symbol or 'c-i-c'.

The ACCC expects that claims for commercial-in-confidence status of information by parties will be limited in nature in order to allow the widest possible participation in the public inquiry.

The [ACCC-AER information policy: the collection, use and disclosure of information](#) sets out the general policy of the ACCC and the Australian Energy Regulator (AER) on the collection, use and disclosure of information.

The ACCC prefers to receive submissions in electronic form, either in PDF or Microsoft Word format which allows the submission text to be searched.

Annexure A



Telecommunications (Deemed Functional Separation Undertaking) Amendment Determination 2023

The Australian Competition and Consumer Commission makes the following amendment under subsection 151B(1) of the *Telecommunications Act 1997*.

Dated:

Anna Brakey
Commissioner, Chair of the Communications Committee
Australian Competition and Consumer Commission

Australian Competition and Consumer Commission

1 Name

This is the *Telecommunications (Deemed Functional Separation Undertaking) Amendment Determination 2023*.

2 Commencement

This instrument commences at the start of the day after the day it is registered on the Federal Register of Legislation.

Note: The Federal Register of Legislation may be accessed free of charge at www.legislation.gov.au.

3 Authority

This instrument is made under subsection 151B(1) of the *Telecommunications Act 1997*.

4 Amendment

The instrument that is specified in Schedule 1 is amended as set out in the applicable item in that Schedule.

Schedule 1—Amendments

Telecommunications (Deemed Functional Separation Undertaking) Determination 2020 (F2021C00342)

1 After subsection 7(3)

Add:

(3A) The corporation will prepare the documentation referred to in subsection (7)(3) in a manner that allows the price related terms and conditions on which the corporation's wholesale business unit supplies local access line services to the corporation's retail business unit to be directly compared with the price related terms on which the corporation's retail business unit supplies its customers when using the local access line services, including by:

- (a) preparing a table of price related terms in the same form as the corporation's retail business unit's published table of retail pricing offers and specifying all tariffs, including monthly charge, set up fee, early termination charge and minimum cost, along with any data/usage terms and conditions, such as included usage amount and method to calculate any excess usage charge; and
- (b) listing each short-term and long-term discount, credit or rebate arrangement that the corporation's wholesale business unit has offered to the corporation's retail business unit, and specifying the name of the arrangement, relevant amounts, qualifying conditions and offer period.

(3B) The corporation will promptly update the documentation referred to in subsection (7)(3) each time that there is:

- (a) any change in the price related terms and conditions that the corporation's wholesale business unit offers to the corporation's retail business unit, including a change to its short-term or long-term discount, credit or rebate arrangements offered to one or more sites; or
- (b) any change in the price related terms and conditions that the corporation's retail business unit offers to its customers, including a change to its short-term or long-term discount, credit or rebate arrangements offered to one or more sites.

2 After subsection 7(6)

Add:

(6A) For the avoidance of doubt, the published terms and conditions relating to price or a method of ascertaining price referred to in subsection 7(6) will include all short-term or long-term discounts, credits or rebates that apply to the corporation's wholesale business unit's offers to supply local access line services.

(6B) The corporation will promptly update its published terms and conditions each time that there is any change in the price related terms and conditions, or other terms and conditions, that the corporation's wholesale business unit offers either to the corporation's retail business unit or wholesale customers, including any change to its short-term or long-term discount, credit or rebate arrangements.

(6C) The corporation will ensure that wholesale customers are promptly notified in writing each time that the corporation updates its published terms and conditions.

3 After subsection 7(12)

Add:

(12A) For the avoidance of doubt, the corporation will ensure that the customer interface referred to in subsection 7(12):

- (a) provides the same functionality to its wholesale customers and the corporation's retail business unit in respect of local access line services; and
- (b) provides wholesale customers and the corporation's retail business unit with access to the same set of local access line services.

4 After subsection 7(14)

Add:

(14A) In each of the written reports referred to in subsection 7(14), the corporation will include a copy of:

- (a) each document setting out the terms and conditions on which the corporation's wholesale business unit supplied local access line services to the corporation's retail business unit as referred to in subsection 7(3); and
- (b) each published wholesale standard form of agreement as referred to in subsection 7(6) in effect during the reporting period.

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Annexure B



Telecommunications (Deemed Functional Separation Undertaking) Determination 2020

made under subsections 151A(13) and 151B(1) of the Telecommunications Act 1997.

[COMPILATION VERSION OF PROPOSED AMENDED DETERMINATION]

1 Name

This is the *Telecommunications (Deemed Functional Separation Undertaking) Determination 2020*.

3 Authority

This Determination is made under subsections 151A(13) and 151B(1) of the *Telecommunications Act 1997*.

4 Definitions

In this Determination, unless the contrary intention appears:

Act means the *Telecommunications Act 1997*.

corporation has the meaning given by section 142A of the Act.

customer interface has the meaning given by section 142A of the Act.

fundamental provision has the meaning given by subsection 151A(9) of the Act.

local access line has the meaning given by section 158 of the Act.

local access line service has the meaning given by section 142A of the Act.

protected information means:

- (a) confidential or commercially sensitive information relating to a wholesale customer (other than the retail business unit), or a customer of a wholesale customer, and which the wholesale business unit obtains for the purpose of, or in the course of, supplying services to that wholesale customer;
- (b) confidential or commercially sensitive information, other than that of a kind referred to in section 9, which the retail business unit obtains from a carrier or a carriage service provider (other than the wholesale business unit) for the purpose of, or in the course of, acquiring services from that carrier or carriage service provider; or
- (c) information of the kind referred to in subsections 7(8), 7(9), 7(10) and 7(11).

residential customer has a meaning affected by section 161 of the Act.

retail business unit has the meaning given by section 142A of the Act.

retail customer has the meaning given by section 142A of the Act.

standard functional separation undertaking means an undertaking under section 151A of the Act.

superfast carriage service has the meaning given by section 142A of the Act.

wholesale business unit has the meaning given by section 142A of the Act.

wholesale customer has the meaning given by section 142A of the Act.

worker has the meaning given by section 142A of the Act.

Note: A number of other terms used in this instrument are defined in the Act, including:

- ACCC;
- carrier; and
- carriage service provider.

5 References to other instruments

In this Determination, unless the contrary intention appears:

- (a) a reference to any other legislative instrument is a reference to that other legislative instrument as in force from time to time; and
- (b) a reference to any other kind of instrument or writing is a reference to that other instrument or writing as in force or in existence from time to time.

Note 1: For references to Commonwealth Acts, see section 10 of the *Acts Interpretation Act 1901*; and see also subsection 13(1) of the *Legislation Act 2003* for the application of the *Acts Interpretation Act 1901* to legislative instruments.

Note 2: All Commonwealth Acts and legislative instruments are registered on the Federal Register of Legislation.

Note 3: For paragraph (b), see subsection 589(2) of the Act.

6 Deemed standard functional separation undertaking

If:

- (a) a corporation supplies superfast carriage services to no more than 50,000 residential customers using local access lines where that corporation is in a position to exercise control of those local access lines;
- (b) that corporation has, by written notice given to the ACCC, elected to be bound by this Determination;
- (c) that corporation has not, by written notice given to the ACCC, cancelled the election mentioned in paragraph (b); and
- (d) the ACCC has not revoked the election mentioned in paragraph (b) under subsection 151B(7) of the Act;

the Act has effect as if the:

- (e) corporation had given a standard functional separation undertaking in the terms set out in section 7;
- (f) ACCC had accepted the undertaking; and
- (g) undertaking had come into force when the election mentioned in paragraph (b) was given to the ACCC.

Note: For when a person is in a position to exercise control of a line, see section 155A of the Act.

7 Terms of deemed standard functional separation undertaking

- (1) The corporation will maintain a single wholesale business unit and a single retail business unit, including by:
 - (a) having separate branding for its wholesale business unit and its retail business unit; and
 - (b) in supplying the retail business unit and its other wholesale customers, the wholesale business unit will undertake:
 - (i) network planning functions with equal opportunity for, and consideration of, input from the retail business unit and its other wholesale customers;

- (ii) the marketing, sale and supply of local access line services to its wholesale customers and prospective wholesale customers;
 - (iii) the receipt and processing of orders, service activation and provisioning;
 - (iv) processing and implementing requests to churn or for local number portability;
 - (v) line fault detection, handling and rectification;
 - (vi) the billing of wholesale customers;
 - (vii) the setting of wholesale prices and non-price terms and conditions;
 - (viii) responding to all network complaints from the retail business unit and its other wholesale customers; and
 - (ix) responding to all service complaints in respect of wholesale information technology systems and applications from the retail business unit and its other wholesale customers.
- (c) in supplying retail customers, the retail business unit will undertake:
- (i) the marketing, sale and supply of local access line services to retail customers and prospective retail customers;
 - (ii) the supply of value-added services to retail customers;
 - (iii) the taking of service orders from retail customers for activation and provisioning by the wholesale business unit;
 - (iv) the billing of retail customers;
 - (v) the setting of retail prices and non-price terms and conditions; and
 - (vi) responding to complaints from retail customers.
- (2) The corporation will maintain arm's length functional separation between the corporation's wholesale business unit and the corporation's retail business unit including by:
- (a) taking measures to ensure that there is physical separation of workers in the corporation's offices so that workers within the:
 - (i) retail business unit are unable to access, engage in, see or overhear the work being conducted in the corporation's wholesale business unit; and
 - (ii) wholesale business unit are unable to access, engage in, see or overhear the work being conducted in the corporation's retail business unit;
 - (b) ensuring that any remuneration of workers within the corporation's retail business unit and wholesale business unit that is related to the performance of the corporation is only related to the performance of the particular business unit within which an affected worker is based; and
 - (c) ensuring that the corporation's retail business unit and wholesale business unit undertake separate business planning and investment approval processes.
- (3) The corporation will ensure that:
- (a) the terms and conditions relating to price or a method of ascertaining price; and
 - (b) other terms and conditions;
- on which the corporation's wholesale business unit supplies local access line services to the corporation's retail business unit are documented.

(3A) The corporation will prepare the documentation referred to in subsection (7)(3) in a manner that allows the price related terms and conditions on which the corporation's wholesale business unit supplies local access line services to the corporation's retail business unit to be directly compared with the price related terms on which the corporation's retail business unit supplies its customers when using the local access line services, including by:

- (a) preparing a table of price related terms in the same form as the corporation's retail business unit's published table of retail pricing offers and specifying all tariffs, including monthly charge, set up fee, early termination charge and minimum cost, along with any data/usage terms and conditions, such as included usage amount and method to calculate any excess usage charge; and
- (b) listing each short-term and long-term discount, credit or rebate arrangement that the corporation's wholesale business unit has offered to the corporation's retail business unit, and specifying the name of the arrangement, relevant amounts, qualifying conditions and offer period.

(3B) The corporation will promptly update the documentation referred to in subsection (7)(3) each time that there is:

- (a) any change in the price related terms and conditions that the corporation's wholesale business unit offers to the corporation's retail business unit, including a change to its short-term or long-term discount, credit or rebate arrangements offered to one or more sites; or
- (b) any change in the price related terms and conditions that the corporation's retail business unit offers to its customers, including a change to its short-term or long-term discount, credit or rebate arrangements offered to one or more sites.

- (4) The corporation will ensure that its workers who perform their duties for the corporation's wholesale business unit are different from the workers who perform their duties for the corporation's retail business unit, including by;
 - (a) the implementation of measures to ensure that workers from the corporation's wholesale business unit are only subject to management direction from within that business unit;
 - (b) the implementation and carrying out of training activities for all of the corporation's workers in respect of the corporation's obligations under this Determination;
 - (c) allowing for the use of shared workers who carry out corporate service functions including finance, human resources management, legal, information technology, marketing and other ancillary services across the corporation's wholesale and retail business units, subject to the implementation of measures to ensure those workers do not divulge protected information between the corporation's wholesale and retail business units; and
 - (d) allowing workers to transfer between the corporation's retail and wholesale business units, subject to those workers being made aware of the corporation's obligations under this Determination and any such transfers being documented in writing.
- (5) The corporation will ensure that there are access restrictions in place in respect of its:
 - (a) operational support systems;
 - (b) business systems,
 - (c) communications systems; and
 - (d) accounts;

- to prevent the sharing of protected information between the corporation's:
- (e) retail business unit with the corporation's wholesale business unit; and
 - (f) wholesale business unit with the corporation's retail business unit.
- (6) The corporation will publish on its website:
- (a) the terms and conditions relating to price or a method of ascertaining price; and
 - (b) other terms and conditions;
- on which the corporation's wholesale business unit offers to supply local access line services to:
- (c) the corporation's retail business unit; and
 - (d) the corporation's wholesale business customers or prospective wholesale business customers.

(6A) For the avoidance of doubt, the published terms and conditions relating to price or a method of ascertaining price referred to in subsection 7(6) will include all short-term or long-term discounts, credits or rebates that apply to the corporation's wholesale business unit's offers to supply local access line services.

(6B) The corporation will promptly update its published terms and conditions each time that there is any change in the price related terms and conditions, or other terms and conditions, that the corporation's wholesale business unit offers either to the corporation's retail business unit or wholesale customers, including any change to its short-term or long-term discount, credit or rebate arrangements.

(6C) The corporation will ensure that wholesale customers are promptly notified in writing each time that the corporation updates its published wholesale terms and conditions.

- (7) The corporation will:
- (a) if requested to do so by a wholesale customer or prospective wholesale customer, supply a local access line service to the wholesale customer or prospective wholesale customer; and
 - (b) do so on the terms and conditions that were published on the corporation's website at the time when the request was made.
- (8) The corporation will ensure that information provided to the corporation's wholesale business unit by the corporation's wholesale customers is not disclosed to the corporation's retail business unit.
- (9) The corporation will ensure that the corporation's retail business unit does not obtain, access or use information provided to the corporation's wholesale business unit by the corporation's wholesale customers;
- (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.
- (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.
- (12) The corporation will use the same customer interface for dealings between:
- (a) the corporation's wholesale business unit; and
 - (b) the corporation's wholesale customers;

as the corporation uses for dealings between:

- (c) the corporation's wholesale business unit; and
- (d) the corporation's retail business unit.

Note: For the avoidance of doubt, the corporation is required to use the same complaints escalation systems that form part of its customer interface for its wholesale customers and its retail business unit.

(12A) For the avoidance of doubt, the corporation will ensure that the customer interface referred to in subsection 7(12):

- (a) provides the same functionality to its wholesale customers and the corporation's retail business unit in respect of local access line services; and
- (b) provides wholesale customers and the corporation's retail business unit with access to the same set of local access line services.

- (13) The corporation will comply with any relevant requirements specified in determinations made under subsections 151A(14) and 151A(15) of the Act.
- (14) The corporation will give the ACCC a written report, on or before 31 July each year, that sets out:
 - (a) the total number of residential customers that the corporation supplies superfast carriage services to using local access lines where the corporation is in a position to exercise control of those local access lines, as at 30 June of that year;
 - (b) a statement of compliance in respect of the corporation's compliance or otherwise with each of subsections 7(1) to 7(13) of this Determination and, where applicable, sections 151ZF and 151ZG of the Act, for the year ended 30 June;
 - (c) the details of, including the reasons for, and the action taken to address, any instances of the corporation's non-compliance with subsections 7(1) to 7(13) of this Determination and sections 151ZF and 151ZG of the Act during the year ended 30 June;
 - (d) the details of any complaints the corporation received from its wholesale customers during the year ended 30 June that assert the corporation's non-compliance with any of subsections 7(1) to 7(13) of this Determination and sections 151ZF and 151ZG of the Act; and
 - (e) the details of any action taken by the corporation in response to a complaint of a kind mentioned in paragraph (d).

(14A) In each of the written reports referred to in subsection 7(14), the corporation will include a copy of:

- (a) each document setting out the terms and conditions on which the corporation's wholesale business unit supplied local access line services to the corporation's retail business unit as referred to in subsection 7(3); and
- (b) each published wholesale standard form of agreement as referred to in subsection 7(6) in effect during the reporting period.

- (15) The corporation will:
 - (a) within 3 months of giving an election under paragraph 6(b), prepare, and give the ACCC a copy of, a written plan setting out the actions to be taken by the corporation for the purpose of ensuring it complies with subsections 7(1) to 7(13); and

- (b) within 7 days of making any variation to the plan mentioned in paragraph (a), give the ACCC a copy of any such variation.

- (16) In the event that an undertaking was in force by operation of section 6, but the corporation to which the undertaking applied exceeds the customer threshold mentioned in paragraph 6(a), the corporation must notify the ACCC, in writing, of that event within 14 days of that event occurring.

8 Fundamental provisions

Subsections 7(1) to 7(12) are fundamental provisions.

9 Determination of kinds of information

- (1) Subsections (2) and (3) set out the kinds of information that are determined, pursuant to subsection 151A(13) of the Act, to be specified information for the purpose of subsections 7(10) and 7(11).
- (2) Information provided to the corporation's retail business unit by a carrier or carriage service provider that constitutes:
 - (a) terms and conditions relating to price or a method of ascertaining price in respect of the provision of a local access line service on a wholesale basis;
 - (b) other terms and conditions relating to the provision of a local access line service on a wholesale basis; or
 - (c) current or proposed network coverage information including maps and network ownership information relating to the provision of a local access line service on a wholesale basis;where that information is disclosed by the corporation's retail business unit to the corporation's wholesale business unit for the purpose of obtaining an equivalent offer in respect of the provision of a local access line service on a wholesale basis.
- (3) Information provided to the corporation's retail business unit by a carrier or carriage service provider that constitutes:
 - (a) practices, procedures or other guidance relating to the maintenance and continuity of business operations in emergency scenarios;
 - (b) a request to access the infrastructure of the corporation's wholesale business unit for the purpose of maintaining network resilience or the continuity of business operations; or
 - (c) practices, procedures or other guidance relating to compliance with relevant regulatory obligations.