



NBN Services in Operation Record Keeping and Reporting Rules Amendment

Competition and Consumer Act 2010

The AUSTRALIAN COMPETITION AND CONSUMER COMMISSION amends these Rules under subsection 151BU(1) of the *Competition and Consumer Act 2010*.

These amended Rules come into force on 1 January 2018.

Dated *eighteenth* December 2017

A handwritten signature in black ink, appearing to read "Delia Ann Rickard", written over a dotted line.

Delia Ann Rickard

Deputy Chair

Australian Competition and Consumer Commission

NBN Services in Operation
Record Keeping and Reporting Rules

Section 151BU

Competition and Consumer Act 2010

Australian Competition and Consumer Commission

August 2014

TITLE

- (1) These rules made by the Australian Competition and Consumer Commission (ACCC) pursuant to section 151BU of the *Competition and Consumer Act 2010* (CCA) may be referred to as the NBN Services in Operation Record Keeping and Reporting Rules (Rules).

COMMENCEMENT AND EXPIRY

- (2) These Rules shall take effect from 1 October 2014 and expire on 30 September 2020.

APPLICATION

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

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) 'CCA' means the *Competition and Consumer Act 2010* (Cth).
 - (e) 'CVC' means connectivity virtual circuit as defined in an applicable Standard Form of Access Agreement.
 - (f) 'Existing Network Access Services' means FTTB, FTTN, FTTP, HFC, Satellite access services, Interim Satellite access services and Wireless access services.
 - (g)(f) ~~'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.~~
 - (g) 'FTTB' means the FTTB Network (as that term is defined in an applicable Standard Form of Access Agreement) used by NBN Co to supply the product defined as the nbn Ethernet in an applicable Standard Form of Access Agreement.
 - (h) 'FTTN' means the FTTN Network (as that term is defined in an applicable Standard Form of Access Agreement) used by NBN Co to supply the product defined as the nbn Ethernet in an applicable Standard Form of Access Agreement.

- (i) **'FTTP'** means the Fibre Network (as that term is defined in an applicable Standard Form of Access Agreement) used by NBN Co to supply the product defined as the nbn Ethernet in an applicable Standard Form of Access Agreement.
- (h)(j) **'HFC'** means the HFC Network (as that term is defined in an applicable Standard Form of Access Agreement) used by NBN Co to supply the product defined as the nbn Ethernet in an applicable Standard Form of Access Agreement. **'Interim Satellite'** means the interim satellite network used by NBN Co to supply the product defined as the NBN Co Interim Satellite Service in an applicable Standard Form of Access Agreement.
- (i)(k) **'New Network Access Service'** means a service supplied by NBN Co over a customer access network which is not an Existing Network Access Service and is not a network access service subject to any other record keeping rule made by the ACCC.
- (j)(l) **'POI'** means point of interconnection as defined in an applicable Standard Form of Access Agreement.
- (k)(m) **'Product Component'** and **'Product Feature'** have, in respect of a network access service the same meanings as in the applicable Standard Form of Access Agreement for the network access service.
- (h)(n) **'Reporting Date'** means the last day of a calendar quarter (i.e. 31 March, 30 June, 30 September, 31 December).
- (m)(o) **'Rule'** means the *NBN Co Services in Operation Record Keeping and Reporting Rule*.
- (p) **'Satellite'** means the Satellite Network (as that term is defined in an applicable Standard Form of Access Agreement) used by NBN Co to supply the product defined as the nbn Ethernet in an applicable Standard Form of Access Agreement.
- (n)(q) **'Service in Operation'** or **'SIO'** refers to an active telecommunications service being supplied by NBN Co to an Access Seeker.
- (o)(r) **'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.
- (p)(s) **'TC-1'** means AVC traffic class 1 and CVC traffic class 1 (as applicable) as defined in an applicable Standard Form of Access Agreement.
- (q)(t) **'TC-2'** means AVC traffic class 2 and CVC traffic class 2 (as applicable) as defined in an applicable Standard Form of Access Agreement.
- (r)(u) **'TC-4'** means AVC traffic class 4 and CVC traffic class 4 (as applicable) as defined in an applicable Standard Form of Access Agreement.
- (s)(v) **'Wireless'** means the Wireless Network (as that term is defined in an applicable Standard Form of Access Agreement) used by NBN Co to supply the product defined as the nbn Ethernet in an applicable Standard Form of Access Agreement.

~~Agreement means the fixed wireless network used by NBN Co to supply the product defined as the NBN Co Ethernet Bitstream Service over Wireless in an applicable Standard Form of Access Agreement.~~

- (5) Unless the contrary intention appears, an expression used in these Rules that is also used in the CCA has the same meaning in these Rules as it does in the CCA.

RECORD KEEPING RULES

Record keeping rules for ~~FTTP Existing Network~~ Access Services

- (6) For each POI at which it offers ~~Existing Network Access Services~~ FTTP access services, NBN Co must establish and maintain an electronic record containing the following information:
- (a) The name of the POI.
 - (b) The state or territory in which the POI is located.
 - (c) The name of each Access Seeker being provided with Existing Network Access ~~FTTP access~~ Services at the POI.
 - (d) The total number of ~~FTTP access service~~ AVCs supplied in TC-1 for each Existing Network Access Service type, grouped by data transfer rate 'tier' as specified in NBN Co's applicable Standard Form of Access Agreement, for each Access Seeker at the POI.
 - (e) The total number of ~~FTTP access service~~ AVCs supplied in TC-2 for each Existing Network Access Service type, grouped by data transfer rate 'tier' as specified in NBN Co's applicable Standard Form of Access Agreement, for each Access Seeker at the POI.
 - (f) The total number of ~~FTTP access service~~ AVCs supplied in TC-4 for each Existing Network Access Service type, grouped by data transfer rate 'tier' as specified in NBN Co's applicable Standard Form of Access Agreement, for each Access Seeker at the POI.

~~Record keeping rules for Wireless access services~~

- ~~(7) For each POI at which it offers Wireless access services, NBN Co must establish and maintain an electronic record containing the following information:~~
- ~~(a) The name of the POI.~~
 - ~~(b) The state or territory in which the POI is located.~~
 - ~~(c) The name of each Access Seeker being provided with Wireless access services at the POI.~~
 - ~~(d) The total number of Wireless access service AVCs supplied in TC-1, grouped by data transfer rate 'tier' as specified in NBN Co's applicable Standard Form of Access Agreement, for each Access Seeker at the POI.~~

- (e) ~~The total number of Wireless access service AVCs supplied in TC 4, grouped by data transfer rate 'tier' as specified in NBN Co's applicable Standard Form of Access Agreement, for each Access Seeker at the POI.~~

Record keeping rules for Interim Satellite access services

(7) ~~[Deleted]~~

(8) ~~[Deleted]~~

- (8) ~~For each POI at which it offers Interim Satellite access services, NBN Co must establish and maintain an electronic record containing the following information:~~

(a) ~~The name of the POI.~~

(b) ~~The state or territory in which the POI is located.~~

(c) ~~The name of each Access Seeker being provided with Interim Satellite access services at the POI.~~

(d) ~~The total number of Interim Satellite access service AVCs supplied in TC 1, grouped by data transfer rate 'tier' as specified in NBN Co's applicable Standard Form of Access Agreement, for each Access Seeker at the POI.~~

(e) ~~The total number of Interim Satellite access service AVCs supplied in TC 4, grouped by data transfer rate 'tier' as specified in NBN Co's applicable Standard Form of Access Agreement, for each Access Seeker at the POI.~~

Record keeping rules for CVCs

- (9) For each POI, NBN Co must establish and maintain an electronic record containing the following information:

(a) The name of the POI.

(b) The state or territory in which the POI is located.

(c) The name of each Access Seeker being provided with CVC services in connection with Existing Network Access Services at the POI.

(d) The contracted CVC TC-1 capacity in Mbps for Existing Network Access Services for each Access Seeker at the POI.

(e) The contracted CVC TC-2 capacity in Mbps for Existing Network Access Services for each Access Seeker at the POI.

(f) The contracted CVC TC-4 capacity in Mbps for Existing Network Access Services for each Access Seeker at the POI.

(g) The average utilisation in Mbps for contracted CVC TC-1 capacity for Existing Network Access Services between 7:00pm and 11:00pm daily for each Access Seeker at the POI.

- (h) The average utilisation in Mbps for contracted CVC TC-2 capacity for Existing Network Access Services between 9:00am and 5:00pm daily for each Access Seeker at the POI.
 - (i) The average utilisation in Mbps for contracted CVC TC-4 capacity for Existing Network Access Services for each hour between 7:00pm and ~~11~~0:00pm daily for each Access Seeker at the POI.
 - (j) The average utilisation in Mbps for contracted CVC TC-1 capacity for Existing Network Access Services for each Access Seeker at the POI.
 - (k) The average utilisation in Mbps for contracted CVC TC-2 capacity for Existing Network Access Services for each Access Seeker at the POI.
 - (l) The average utilisation in Mbps for contracted CVC TC-4 capacity for Existing Network Access Services for each Access Seeker at the POI.
- (10) If NBN Co supplies an Access Seeker with multiple CVCs at a given POI, NBN Co must establish and maintain a separate record as required under Rules 9(d) to (l) for each CVC.
- (11) The obligation to record CVC capacity under Rules 9(d) to (f) is satisfied by NBN Co measuring CVC capacity at 11:59:59pm on a daily basis for Existing Network Access Services for each Access Seeker at each POI.
- (12) The obligation to record CVC utilisation under Rules 9(dg), ~~9-to-(h)~~, 9(j) to (l) and 10 is satisfied by NBN Co measuring CVC utilisation at regular intervals throughout each day and making a record of the average utilisation on a daily basis. The obligation to record CVC utilisation under Rule 9(i) is satisfied by NBN Co measuring CVC utilisation at each hour between 7:00pm and 11:00pm each day and making a record of the average utilisation for each of those hours on a daily basis.

Record keeping rules for New Network Access Services or Product Components/Features

- (12)(13) The ACCC may, by providing written notice to NBN Co, request NBN Co to establish and maintain an electronic record that relates to any New Network Access Service, or any Product Component or Product Feature which is not currently the subject of these Rules, provided that NBN Co has published a Standard Form of Access Agreement on its website that relates to the New Network Access Service or the Product Component or Product Feature.
- (13)(14) Subject to Rule ~~154~~ and ~~165~~, NBN Co must, within 90 calendar days of receiving the written notice provided under Rule ~~132~~:
- (a) Establish and maintain an electronic record containing information about the New Network Access Service, Product Component or Product Feature which is equivalent to that required by Rules 6 to ~~12~~.
 - (b) Comply with the reporting requirements in Rules ~~187~~ to ~~220~~ in respect of the New Network Access Service, Product Component or Product Feature.
- (14)(15) NBN Co can provide written notice to the ACCC which specifies the information it can reasonably provide to the ACCC in respect of the New Network Access

Service, Product Component or Product Feature, as the case may be, and, or, the time by which it can provide the information.

- (15)(16) Should NBN Co provide a written notice to the ACCC under Rule 154, then its obligations pursuant to Rule 143 are taken to be varied in accordance with the terms of the notice.

Guidance note: this is not intended to limit the ACCC's power to make other record keeping rules for New Network Access Services or for Product Components or Product Features which are not currently the subject of these Rules.

Duration for which records must be kept

- (16)(17) A record made under Rules 6 to 165 must be kept by NBN Co for 12 months from the date on which the record is made.

REPORTING REQUIREMENTS

- (17)(18) For each calendar quarter, NBN Co must provide the ACCC with a report containing the information required by Rules 6 to 165 of these Rules as at the Reporting Date.

- (18)(19) Notwithstanding Rule 187, NBN Co is not required to provide reports containing the information required by:

- (a) ~~[Deleted] Rule 8 from the first calendar quarter after NBN Co no longer supplies Interim Satellite access services under any Standard Form of Access Agreement.~~
- (b) Rules 6 to 156 of these Rules to the extent that it supplies the relevant services on a non-commercial trial basis.
- (c) ~~[Deleted] Rules 9(g) to (l) until the first calendar quarter after NBN Co advises the ACCC that it is capable of providing such reports, which must occur no later than 30 June 2015.~~

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- (19)(20) A report under Rule 187 must be:

- (a) provided to the ACCC within 28 calendar days of the Reporting Date.
- (b) prepared and submitted for Existing Network Access Services electronically in Microsoft Excel in the format prescribed by the ACCC and annexed at **Attachment A**.
- (c) prepared and submitted for New Network Access Services as a consolidation with the report for Existing Network Access Services if practical and otherwise electronically in Microsoft Excel in a format substantially similar to the format prescribed by the ACCC and annexed at **Attachment A**.

- (20)(21) The report specified under Rule 187 must be provided to the ACCC by email or by another mode of delivery approved in writing by the ACCC. Reports provided by email must be sent to both of the following addresses:

- (a) rkrinbox@acc.gov.au

(b) Comms.Admin@accc.gov.au or admin@accc.gov.au

(21)(22) The ACCC:

- (a) may amend the format referred to in Rule 1920(b) and (c).
- (b) must provide NBN Co with adequate notice of any such amendment.

(22)(23) NBN Co must prepare any other report containing the information required by Rules 6 to 16 of these Rules as and when required by the ACCC. The ACCC must provide NBN Co with adequate notice of any such request.

[One table for Satellite and one table for all other Existing Network Access Services per group of access technologies e.g. (1) FTTN and wireless and (2) interim satellite. One row for each individual CVC. One entry per day for the average daily utilisation plus one entry per day for the average utilisation for the TC1 or TC2 busy period (in 7 8pm column) or one entry for the average utilisation of each hour of the TC4 busy period.

State	POI name	Access seeker	CVC Traffic Class	Contracted capacity* (Mbps) (Day1)	Avg. utilisation (Mbps) (Day 1)	Avg. utilisation during Traffic Class peak period (Day 1, 7pm to 8pm (TC4), or 7pm to 10pm (TC1), or 9am to 5pm (TC2))	Avg. utilisation during Traffic Class peak period (Day 1, 8pm to 9pm)	Avg. utilisation during Traffic Class peak period (Day 1, 9pm to 10pm)	Avg. utilisation during Traffic Class peak period (Day 1, 10pm to 11pm)	Contracted capacity* (Mbps) (Day n)	Avg. utilisation (Mbps) (Day n)	Avg. utilisation during Traffic Class peak period (Day n, 7pm to 8pm (TC4), or 7pm to 10pm (TC1), or 9am to 5pm (TC2))	Avg. utilisation during Traffic Class peak period (Day n, 8pm to 9pm)	Avg. utilisation during Traffic Class peak period (Day n, 9pm to 10pm)	Avg. utilisation during Traffic Class peak period (Day n, 10pm to 11pm)	Contracted capacity* (Mbps) (Day last)	Avg. utilisation (Mbps) (Day last)	Avg. utilisation during Traffic Class peak period (Day last, 7pm to 8pm (TC4), or 7pm to 10pm (TC1), or 9am to 5pm (TC2))	Avg. utilisation during Traffic Class peak period (Day last, 8pm to 9pm)	Avg. utilisation during Traffic Class peak period (Day last, 9pm to 10pm)	Avg. utilisation during Traffic Class peak period (Day last, 10pm to 11pm)	

*Where the contracted capacity for CVC has changed during the reporting period during a day, the contracted capacity will be the capacity at the end of the day. A time-weighted average will be presented in respect to the Avg. contracted capacity, Avg. utilisation and Avg. utilisation during Traffic Class peak

period. Avg. contracted capacity will only be reported once Avg. utilisation and Avg. utilisation during Traffic Class peak period are reported (in accordance with Rule 18(e)).