

Competition and Consumer Act 2010

Declaration under subsection 152AL(3)

1. The Australian Competition and Consumer Commission declares pursuant to subsection 152AL(3) of the *Competition and Consumer Act 2010* (the Act), that the superfast broadband access service (SBAS) is a 'declared service' for the purposes of Part XIC of the Act.
2. This declaration takes effect on 29 July 2016 and expires on 28 July 2021.
3. The SBAS is described in Annexure 1 to this instrument.

Dated this 29th day of July 2016

A handwritten signature in blue ink, appearing to read "R. Sims", written over a dotted line.

Rodney Graham Sims

Chairman

Australian Competition and Consumer Commission

Annexure 1: Service description for the Superfast broadband access service

The superfast broadband access service is a point to point service for the carriage of communications in digital form between a **network-network interface** and an **end-user interface** that is:

- (a) a **Layer 2 bitstream service** and is a **superfast carriage service**; or
- (b) a **Fibre Access Broadband service**.

This service does not include:

- i. a service supplied through an **access multiplexer** located in a **multi-dwelling complex** in a **central business district area** or in a **node** in a **central business district area** where all end-users of the services supplied or proposed to be supplied through that access multiplexer and any other access multiplexers owned or controlled by the same access provider located in the same **multi-dwelling complex** or **node** are **business customers, public bodies or charity customers**;
- ii. a service supplied other than through an **access multiplexer** located in a **multi-dwelling complex** or in a **node** where the premises of the end-users of the service is in a **central business district area** and all end-users of the service are **business customers, public bodies or charity customers**;
- iii. services supplied, or capable of being supplied, by an **NBN corporation**;
- iv. services supplied, or capable of being supplied, using a hybrid-fibre coaxial cable network that was in existence on 29 July 2016 and in respect of which there are agreements for the network to be transferred to NBN corporation;
- v. the local bitstream access service defined in the Local Bitstream Access Service Declaration 2012, while that declaration is in operation; or
- vi. the domestic transmission capacity service defined in the Domestic Transmission Capacity Service Declaration 2014, as that declaration may be varied, extended or replaced from time to time.

Definitions

Unless otherwise defined in this declaration, words or phrases defined in the *Competition and Consumer Act 2010* or the *Telecommunications Act 1997* have the same meaning in this declaration.

access line means the line used to connect the access multiplexer to the end-user interface.

access multiplexer means a device that separates communications carried by means of guided electromagnetic energy to enable an end-user to make use of high data rate services.

business customer means a customer that:

- (a) carries on a business or enterprise from a premises, regardless of whether there is any incidental use of the premises for occupation (from time to time) as a place of residence; and

(b) has an ABN for the business or enterprise.

central business district area means a geographic area with one of the following postcodes:

- (a) Canberra CBD: 2600-2601
- (b) Sydney CBD: 1000-1299; 2000-2009
- (c) Melbourne CBD: 3000-3010; 8000-8010
- (d) Brisbane CBD: 4000-4004
- (e) Adelaide CBD: 5000-5005; 5800-5879
- (f) Hobart CBD: 7000-7003; or
- (g) Perth CBD: 6000-6005; 6800-6899.

charity customer means a charity registered with the Australian Charities and Not-for-profits Commission.

end-user interface means an interface located at either:

- (a) a physically defined end-user's premises where the access provider's network is directly or indirectly present to an end-user; or
- (b) the jumper cable termination on the customer side of the Main Distribution Frame located in the multi-dwelling complex.

Fibre Access Broadband service means a carriage service that:

- (a) is supplied or offered to be supplied by means of an optical fibre line; and
- (b) is offered as a **superfast carriage service** or with the following maximum transmission speeds;
 - (i) download transmission speed of 30Mbps and upload transmission speed of 1Mbps; and
 - (ii) download transmission speed of 100Mbps and upload transmission speed of 5Mbps; and.
- (c) has the following configurations:
 - (i) a 'best effort' or non-prioritised service, as characterised by the Differentiated Services Code Point Default Forwarding per-hop behaviour; and
 - (ii) connectivity made with static Layer 2 Tunnelling Protocol (L2TP) tunnels and Broadband Virtual Local Area Networks giving direct access to end user sessions; and
 - (iii) end-user sessions are aggregated together via static L2TP tunnels supplied over Ethernet.

Layer 2 bitstream service has the meaning given in the *Telecommunications Act 1997*.

line means a wire, cable, optical fibre, tube, conduit, waveguide or other physical medium used, or for use, as a continuous artificial guide for or in connection with carrying communications by means of guided electromagnetic energy.

multi-dwelling complex means a building that consists of multiple separate units for occupation (from time to time) which are used as a place of residence or business.

NBN corporation has the meaning given in the *National Broadband Network Companies Act 2011*.

network-network interface means an interface provided by an access provider at a **point of interconnection** where the access seeker's telecommunications network can interface to the access provider's network.

node means a roadside cabinet, pillar, pit or distribution point, but does not include an exchange, that:

- (a) houses the equipment for the supply of services, including access multiplexers, and
- (b) enables the physical connection to the end-user premises using access lines.

point of interconnection is a physical point of interconnection which allows the interconnection of facilities in accordance with subsection 152AR(5) of the *Competition and Consumer Act 2010*.

public body means:

- (a) the Commonwealth, a State or a Territory; or
- (b) a municipal authority or other local governing body; or
- (c) a public authority that is constituted by or under a law of the Commonwealth, a State or a Territory.

superfast carriage service means a carriage service, where:

- (a) the carriage service enables end-users to download communications; and
- (b) the download transmission speed of the carriage service is normally 25 megabits per second or more; and
- (c) the carriage service is supplied using a line to premises occupied or used by an end-user.

telecommunications network has the meaning given in the *Telecommunications Act* .