



# Record Keeping Rule – NBN service quality and network performance

## **Explanatory Statement**

April 2024

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The ACCC acknowledges the traditional owners and custodians of Country throughout Australia and recognises their continuing connection to the land, sea and community. We pay our respects to them and their cultures; and to their Elders past, present and future.

Australian Competition and Consumer Commission

Land of the Ngunnawal people

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# Executive summary

The Australian Competition and Consumer Commission (ACCC) has made a Record Keeping Rule (RKR) for NBN Co relating to its service quality and network performance. The RKR will require NBN Co to keep and retain certain records and prepare and give the ACCC reports consisting of information contained in those records, to assist us in our monitoring, analysis, and reporting functions.

The RKR covers NBN Co's performance in key service quality areas such as responsiveness in meeting connection and fault rectification requests, timeliness in keeping appointments, and notification timeframes when undertaking planned network outages. It also covers the quality and performance of NBN Co's network including network speeds and congestion. Further, the RKR covers NBN Co's progress on its network upgrades which are designed to improve service quality for end-users.

The ACCC considers the development and implementation of the RKR is timely given NBN Co has now completed the build of its network and is now focused on the efficient operation, maintenance, and further development of the network including upgrades.

The RKR will assist the ACCC to monitor and undertake its regulatory functions in broadband services which provide an essential service for end-users. It will enable future benchmarking of service performance across the NBN, and potentially other broadband networks, and help to identify systemic issues regarding service quality that may adversely affect end-users.

In developing the RKR, the ACCC consulted extensively with stakeholders. This included direct consultation with NBN Co in 2023 and 2024 and prior to that broader public stakeholder consultation in 2022. Following these consultations, the ACCC published a draft RKR in December 2023 for public consultation.

Stakeholders have expressed strong support for an RKR including the broad areas for data collection and reporting.

In making the final RKR, we have been mindful to balance the level of regulatory oversight and reporting on NBN Co against the expected benefits of the RKR, which include increased transparency of NBN Co's service performance.

Once reports are available, the ACCC will consider issues relating to the public reporting of the information we collect through the RKR. We propose to consult with NBN Co and other stakeholders on any proposed reporting arrangements.

We will review the RKR over time to ensure it remains relevant and appropriate.

The RKR is available on the ACCC's website at: [NBN service quality and network performance record keeping rule](#)

# 1. Introduction

## 1.1. Background

The Australian Competition and Consumer Commission (ACCC) has made a Record Keeping Rule (RKR) for NBN Co relating to its service quality and network performance. The RKR will require NBN Co to keep and retain certain records and prepare and give the ACCC reports consisting of information contained in those records, to assist us in our monitoring, analysis, and reporting functions.

In developing the RKR, the ACCC undertook an extensive consultation process. In December 2022, the ACCC released a consultation paper outlining several aspects of service quality and network performance, and related service level metrics and data proposed for collection through an RKR.<sup>1</sup>

Industry and consumer submissions supported the ACCC implementing an RKR to increase monitoring and transparency relating to NBN Co's service quality and network performance. Submissions also supported collecting data across the broad areas of service quality set out in the consultation paper. NBN Co was also broadly supportive of an RKR as part of a robust and comprehensive service quality and monitoring framework.

Following the consideration of stakeholder issues raised in submissions, the ACCC undertook extensive consultation with NBN Co via a series of meetings in 2023. The purpose of these meetings was to work through each aspect of service quality and network performance (and the related metrics / data) identified in our consultation paper. The meetings also provided the ACCC with insights regarding NBN Co's internal data systems and the extent to which they were already collecting the information proposed in an RKR. These discussions resulted in some refinements in the proposed metrics and associated data to be reported through an RKR.

In December 2023 the ACCC published a draft RKR and further consultation paper on NBN Co's service quality and network performance. The ACCC received submissions from Aussie Broadband, TPG Telecom, Telstra, Optus and NBN Co. All stakeholders continued to express strong support for the making of an RKR, the proposed service quality aspects identified and the key service quality data to be collected.<sup>2</sup> Some stakeholders suggested further refinements for the ACCC's consideration in finalising the RKR. These suggested refinements largely related to further levels of disaggregation for some metrics for example relating to the connections<sup>3</sup> and appointment keeping metrics<sup>4</sup>.

Taking into account stakeholder submissions, we have amended the draft RKR where considered appropriate, for example to include the number and percentage of planned

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<sup>1</sup> Record Keeping Rule – NBN service performance Consultation paper December 2022: <https://www.accc.gov.au/by-industry/telecommunications-and-internet/service-quality-and-network-performance-record-keeping-rule-for-superfast-broadband-networks/consultation-paper>.

<sup>2</sup> Draft Record Keeping Rule and Consultation paper December 2023: <https://www.accc.gov.au/by-industry/telecommunications-and-internet/service-quality-and-network-performance-record-keeping-rule-for-superfast-broadband-networks/draft-consultation-paper>.

<sup>3</sup> Telstra [submission](#) to Draft Record Keeping Rule – NBN Service quality and network performance, February 2024, p 7; Optus [submission](#) to Draft Record Keeping Rule – NBN Service quality and network performance, February 2024, pgs 3-4.

<sup>4</sup> Telstra [submission](#) to Draft Record Keeping Rule – NBN Service quality and network performance, February 2024, pgs 7-8; Optus [submission](#) to Draft Record Keeping Rule – NBN Service quality and network performance, February 2024, pgs 4.

outages and notification timeframes given to RSPs. However, in finalising the RKR, we have been mindful to balance the regulatory burden on NBN Co against the expected benefits of the RKR to increase transparency of NBN Co's service quality performance.

As noted in previous consultation papers, we intend to review the RKR over time as we assess the service quality information provided by NBN Co through the RKR. A focus of future review will be to ensure the service quality areas, data to be collected and levels of disaggregation continue to be relevant and appropriate as service quality issues evolve.

## 1.2. Rationale

NBN Co has now completed the build of its network and increased its focus on the efficient operation, maintenance, and further development of the network, including upgrading parts of its network. Given this shift in focus, the development and implementation of a service quality and network performance RKR for NBN Co is timely.

A key area of focus for NBN Co will be to meet the service quality and performance levels expected by RSPs and end-users. The information to be collected and reported through the RKR will play a key role in increasing the transparency relating to service quality performance.

Importantly, the RKR will assist the ACCC to undertake its regulatory functions under Part XIC of the CCA. In this regard, the RKR will assist the ACCC to monitor NBN Co's performance in key service quality areas, such as its responsiveness in meeting connection and fault rectification requests, timeliness in keeping appointments, and notification timeframes when undertaking planned network outages.

It will also assist in monitoring the quality and performance of NBN Co's network with a focus on network availability, speeds and congestion. The data to be collected on NBN Co's progress on its network upgrades will increase transparency over initiatives which are designed to improve network and service quality for NBN customers end-users.

The RKR has been designed so that service performance on some parts of the NBN can be benchmarked against other parts, such as by state or access technology groupings. There is further potential for NBN and other broadband networks to be benchmarked in future to further assist in identifying systemic issues regarding service quality that may adversely affect end-users.

The information collected through the RKR will help to build a strong evidence base on which to consider and assess NBN Co's future service standards proposals under the SAU's regulatory framework. Notably, NBN Co's Special Access Undertaking (SAU) was varied in October 2023 to bring regulatory oversight of NBN service standards within its ambit.<sup>5</sup>

The RKR will complement commitments that NBN Co made in the revised SAU to report to RSPs on service quality performance, as well as provide an expanded range of operational reports during the first regulatory cycle (until 30 June 2026).<sup>6</sup> The revised SAU also commits

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<sup>5</sup> On 17 October 2023 the ACCC released its final decision to accept NBN Co's proposed variation to its SAU: <https://www.accc.gov.au/by-industry/telecommunications-and-internet/national-broadband-network-nbn-access-regulation/nbn-co-sau-variation-august-2023/final-decision>.

<sup>6</sup> NBN Co, August 2023 SAU variation Module 4, Attachment I, clause 24: <https://www.accc.gov.au/system/files/NBN%20Co%20-%20SAU%20Variation%20%28clean%29%20-%2014%20August%202023.pdf>.

NBN Co to report publicly on the outcomes of its annual service improvement plan and performance review in the first regulatory cycle.<sup>7</sup>

The RKR focuses on NBN Co's service quality and network performance in the context of its interactions with retailers, and which ultimately flow through to the service quality levels experienced by end-users. However, we acknowledge that other factors such as the quality of a retailer's network and the effectiveness of its direct interactions with their customers (i.e., end-users) can also influence service levels and the quality of service experienced on NBN services.

## 1.3. Regulatory framework

The ACCC has the power to collect information from telecommunications carriers under the *Competition and Consumer Act 2010* (CCA).

Pursuant to section 151BU(1) of the CCA, the ACCC may, by written instrument, make rules for and in relation to requiring one or more specified carriers or carriage service providers to keep and retain records (i.e., an RKR). An RKR may also require the preparation of reports consisting of information contained in those records and the provision of those reports to the ACCC.

Without limiting the ACCC's power under subsection 151BU(1)<sup>8</sup> an RKR may:

- specify the manner and form in which the records are to be kept<sup>9</sup>
- specify the manner and form in which reports are to be prepared<sup>10</sup>
- provide for the preparation of reports as and when required by the ACCC; or the preparation of periodic reports relating to such regular intervals as are specified in the RKR.<sup>11</sup>
- require a report to be given to the ACCC in accordance with specified software requirements.<sup>12</sup>

Pursuant to s 151BU(4) of the CCA, the ACCC must not exercise its power to make an RKR so as to require the keeping or retention of records unless the records contain, or will contain, information that is relevant to the operation of certain parts of the CCA or certain other telecommunications-related legislation, including:

- the operation of Part XIB of the CCA (other than Division 6)
- the operation of Part XIC (which deals with access) of the CCA.

### **Disclosure of reports given to the ACCC**

If the ACCC is satisfied that disclosure of a report or series of periodic reports given to it in accordance with an RKR, or particular aspects of a report(s), would be likely to:

- promote competition in markets for listed carriage services, or
- facilitate the operation of certain parts of the CCA or certain other telecommunications-related legislation, including the operation of Parts XIB and XIC of the CCA,

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<sup>7</sup> NBN Co, August 202 SAU variation Module 4, Schedule 4A.4: <https://www.accc.gov.au/system/files/NBN%20Co%20-%20SAU%20Variation%20%28clean%29%20-%2014%20August%202023.pdf>.

<sup>8</sup> Subsection 151BU(2D) of the CCA.

<sup>9</sup> Subsection 151BU(2) of the CCA.

<sup>10</sup> Subsection 151BU(2A) of the CCA.

<sup>11</sup> Subsection 151BU(2B) of the CCA.

<sup>12</sup> Subsection 151BU(2C) of the CCA.

the ACCC may give written notice to the relevant carrier or carriage service provider that it intends to make copies of the report(s) or extracts available to the public; or direct that the carrier or carriage service provider make those copies available to the public.<sup>13</sup>

In deciding whether to give a disclosure notice or direction, the ACCC must have regard to:

- the legitimate commercial interests of the carrier or carriage service provider concerned, and
- such other matters as the ACCC considers relevant.

The ACCC must not give a disclosure notice or direction unless it has: first provided the relevant carrier or carriage service provider with a draft of the notice or direction (as relevant); and then invited and considered any submissions received.

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<sup>13</sup> Sections 151BUA, 151BUB and 151BUC of the CCA.



## 2. Record Keeping Rule

The following provides an outline of the service level metrics, and data to be collected through the RKR. We consider these areas are where NBN Co's performance is most likely to impact on an RSP's ability to meet end-user needs and service level expectations. The metrics will also assist the ACCC in identifying systemic issues of potential consumer detriment.

In developing the RKR, the ACCC has also had regard to:

- NBN Co's agreed service levels under its current Wholesale Broadband Agreement (WBA5).
- Submissions to our December 2023 consultation paper and associated draft RKR including submissions commenting on appropriate levels of disaggregation.

### 2.1. Connections and transfers

The RKR will require NBN Co to keep records and report on its connection and transfer processes. NBN Co will be required to report on its service connection and transfer volumes and how long these processes take to complete. This includes for different types of connections – standard connections, connections for Priority Assistance customers (those diagnosed with certain life-threatening medical conditions) and accelerated connections.

The RKR also requires collection and reporting of connection information disaggregated by geographic areas, connection timeframes and access network types.

The RKR will also require NBN Co to keep and provide data on the time to complete transfers of services from one RSP to another disaggregated by geographic areas, access type, time taken to transfer services and various transfer categories.

Rules 5(1) to 5(5) in the RKR provide further information on the data to be collected in this category.

### 2.2. Appointment keeping – connections and fault rectifications

The RKR will require NBN Co to keep and report information on NBN Co's performance relating to its connection and fault rectification appointment keeping punctuality. The RKR will require NBN Co to keep and provide appointment keeping performance data disaggregated by geographic areas, appointment window timeframes and whether the appointments resulted from previously re-scheduled appointments. It will also require NBN Co to keep and provide information on appointments which either did not proceed or were re-scheduled due to RSP or end user requests and which are excluded from NBN Co's performance in meeting appointments.

Rule 5(6) in the RKR provides further information on the data to be collected in this category.

## 2.3. End-user faults, performance incidents and network faults

The RKR will require NBN Co to keep and provide information on the number of services experiencing faults and NBN Co's performance in rectifying faults. Separate information is proposed to be collected on Priority Assistance customers experiencing faults. The RKR data is to be disaggregated by geographic areas, access network types, whether external or internal plant work or NBN Co attendance at premises was required, and fault rectification timeframes.

The RKR will require NBN Co to keep and provide information on services experiencing recurring faults disaggregated by geographic areas, access network types and the number of faults experienced with a specified time-period.

Related to faults, the RKR will also require NBN Co to keep and provide data on the number of services experiencing performance incidents, that is, the number of unexpected dropouts within a certain period which NBN Co does not categorise as a fault. This data is to be disaggregated by geographic areas, access network types and timeframes for rectification. Information will also be collected on the number of such services NBN Co designates for network activity, which require technicians to either upgrade or rectify the network infrastructure.

The RKR will also require NBN Co to keep and provide data relating to network infrastructure faults that affect multiple products. Data will be disaggregated by geographic areas, the number of services impacted and the time to rectify network faults.

Rules 5(7) to 5(11) in the RKR provides further information on the data to be collected in this category.

## 2.4. Dropouts and outages

The RKR will require NBN Co to keep and report information relating to services experiencing dropouts (or temporary loss of connectivity) and network outages.

The number of services experiencing dropouts will be disaggregated by the number of dropouts experienced, network access type (excluding wireless and satellite services) and geographic location. The RKR also requires NBN Co to keep and provide network outage information including the number of planned and emergency outages disaggregated by duration, access type and the estimated number of services impacted. The RKR will also require NBN Co to keep and provide information on NBN Co's performance regarding outage notification arrangements communicated to RSPs for planned outages.

Consistent with NBN Co's current reporting systems, the reported outage timeframes will incorporate the period between the start and end time of the NBN Co technician's recorded onsite activity. The actual outage time experienced by end users may be shorter than this period.

As NBN Co does not record the actual outage duration time, the 'Outage Duration (average)' reported by NBN Co under the RKR will be an estimated average outage duration. These outage duration estimates are based on the data provided to RSPs through outage notifications.

Rules 5(12) and 5(13) in the RKR provides further information on the data to be collected under this category.

## 2.5. Network speed, traffic performance and utilisation

The RKR will require NBN Co to keep and report information relating to speeds attained on NBN Co's fixed line and fixed wireless networks, including upload and download speeds by various speed tiers. Speed performance on the fixed line network will be disaggregated by network access type and geographic location.

The ACCC has changed the data to be collected regarding NBN Co's speed performance on its fixed wireless network compared to the draft RKR published for consultation in 2023. Following further consultation with NBN Co, the ACCC has accepted NBN Co's alternative fixed wireless metric as we consider it provides a more accurate and transparent reflection of the end-to-end wholesale network experience. That is, we have incorporated in the RKR, network busy period performance reporting based on cell groups rather than individual cells. In addition, cell group downlink and uplink performance reporting will include timeframes for the busy period (7pm-11pm) and rest of day (11pm-7pm). Under the RKR, NBN Co will also report on cell groups that fall within specified network busy period performance categories (i.e. <25 Mbps and 25 Mbps to 50 Mbps), based on NBN Co's speed tests. The RKR will also require NBN Co to keep and report information relating to the rollout of NBN Co's Fixed Wireless and Satellite Upgrade Program.

Following NBN Co's concerns raised in its submission regarding the value of the network traffic delay metric in the draft RKR (metric 16), and further consultation with NBN Co, the RKR instead includes expanded reporting on NBN Co's network utilisation. We consider this metric will provide appropriate transparency of network utilisation rates which are a leading indicator of network speed and latency performance, as well as the efficiency of NBN Co's investments to augment capacity. The RKR will require NBN Co to keep and provide information on the number and percentage of links that exceed utilisation thresholds by decile. Reporting will also be disaggregated by access type.

Rules 5(14) to 5(16) in the RKR provides further information on the data to be collected under this category.

## 2.6. Network activity

NBN Co designates additional 'network activity' (i.e., works to improve service quality) for poorly performing copper-based services experiencing dropouts and/or not capable of achieving certain minimum speeds. Such activity, including changes to the service's access technology, can include certain network rehabilitation works such as replacing copper cable runs. NBN Co has target dates by which to perform its network activity. The current target date for network activity is 375 business days for services designated (i.e., by NBN Co) from 1 July 2021 onwards as requiring such works or access technology changes. For the relevant reporting periods, the RKR requires NBN Co to keep and provide data relating to services designated for network activity and those where network activity has been completed. Under the RKR, data is to be disaggregated by various timeframes from the date of designation.

Rule 5(17) in the RKR provides further information on the data to be collected under this category.

## 2.7. Fibre upgrades

The RKR will require NBN Co to keep and report information on the progress of NBN Co's fibre upgrade program. Information will be disaggregated by the upgrade program's stages of progress and the network access types that are being upgraded.

Rule 5(18) in the RKR provides further information on the data to be collected under this category.

## 2.8. Rebates and corrective action

The RKR will require NBN Co to keep and report information on rebates payable to RSPs in cases where NBN Co does not meet its agreed service levels for certain activities. This information will be disaggregated by rebate category and network access type. The RKR also requires collection and reporting on services subject to rebates that are capped as well as on the timeliness of rebate payments by NBN Co to RSPs. NBN Co has advised that it requires time to make the necessary systems development changes to enable reporting of rebates consistent with the RKR. The ACCC has allowed for a delayed implementation for the reporting on rebates under the RKR which will be required in quarterly reports from 2025.

The RKR will also require NBN Co to report data relating to NBN Co's corrective action for which NBN Co did not meet its performance objectives. Reporting is to include summaries of the reason(s) for not meeting NBN Co's performance objectives and the proposed corrective action to be undertaken.

The ACCC notes that NBN Co may sometimes not meet its performance objectives due to non-systemic issues (e.g., short duration events). Under the RKR, NBN Co is required to report on the reasons for not meeting a performance objective in any month of the applicable reporting period, and also report on its corrective action where it has failed to meet the performance objective for 3 consecutive months regardless of the reporting periods.

Rules 5(19) and 5(20) in the RKR provides further information on the data to be collected under this category.

## 2.9. Network availability

Network availability is the percentage of time that NBN Co's access network is available and operating. While NBN Co currently publishes a network availability metric on the [NBN Co public dashboard](#), this metric does not capture all periods where the network is unavailable, including due to planned or emergency outages, where NBN takes down the network to safely work on it, or factors outside NBN Co's control, such as extreme weather events.

There is strong stakeholder support for network availability reporting that provides greater insight into overall network availability, however NBN Co expressed concerns regarding the inclusion of additional outages. These concerns relate to current limitations to its data collection processes as well as potential confusion with the availability metrics that are used under its commercial WBA agreement. Further, NBN Co noted that it would likely need to initially estimate the period over which its network was unavailable due to additional types of outages until it can improve its current data collection.

The ACCC has decided that NBN Co should keep records and report on the overall availability of its networks, in addition to the existing metrics that it has previously published. To address NBN Co's concern that the reporting of further metrics could cause confusion with its existing metric, the RKR specifies that the additional availability metrics are to be presented as *network unavailability* measures.

Further, to provide clarity on the underlying causes of unavailability, separate measures will be reported for (i) planned and emergency outages needed for NBN Co to safely conduct work on the network, and (ii) outages that are caused by power outages, loss of facilities, e.g., due to a fire, significant weather events, and other causes outside NBN Co's control. Differentiating the metrics in this manner will assist in identifying the root cause of network availability and the additional mitigations that could be considered to bolster performance over time.

Rule 5(21) in the RKR provides further information on the data to be collected under this category.

### 3. RKR implementation and reporting frequency

The RKR will commence from 1 July 2024. This commencement date will allow NBN Co sufficient time to implement the necessary systems changes for most of the reporting metrics in the RKR.

The RKR has also provided for a delayed implementation date for the collection of rebate information (Rule 5(19)). NBN Co has advised that it would require additional time to develop IT systems to collect and report on the data in the form required by the RKR. The RKR provides for an implementation date of 1 January 2025 for Rule 5(19).

Consistent with the draft RKR, the final RKR requires quarterly reporting by NBN Co. All stakeholders supported quarterly reporting. NBN Co proposed six monthly reporting however we consider that quarterly reporting is more appropriate and better supports the currency and value of the information reported under the RKR. Quarterly reporting will also better enable timely identification of service quality and network performance issues that may adversely affect end users.

The RKR provides, that for the first two reporting periods – for the quarters ending on 30 September and 31 December – NBN Co will have 60 calendar days following the end of the period to provide RKR data to the ACCC. Thereafter, RKR data will be due 30 calendar days after the end of the quarter. This transitional arrangement is to enable NBN Co to establish systems and governance processes for the initial reporting periods.