

## Deemed functional separation undertaking notice

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| Persons electing to be bound by the *Telecommunications (Deemed Functional Separation Undertaking) Determination 2020* should fill out this notice and return it to the ACCC. Once completed, details will be placed on the ACCC’s public register. |

## The deemed functional separation undertaking

The ACCC has made the *Telecommunications (Deemed Functional Separation Undertaking) Determination 2020* (the Determination)*,* which sets out the terms for a deemed functional separation undertaking. Corporations within the class of corporations specified in the Determination can elect to be bound by the deemed functional separation undertaking rather than lodging a standard functional separation undertaking with customised terms approved by the ACCC as an alternative to the requirement to be structurally separated under Part 8 of the *Telecommunications Act 1997* (Telecommunications Act).

Corporations within the class specified in the Determination can elect to be bound by the terms of the undertaking by giving written notice of their election to the ACCC in the form prescribed below. The Determination will take effect from the date the notice is provided to the ACCC.

The ACCC has determined that the specified class of corporations that can elect to be bound by the Determination is a corporation that 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. Should a corporation’s circumstances change such that it exceeds the residential customer threshold, it has 14 days to notify the ACCC of the change.

For corporations that elect to be bound by the Determination, the obligations apply to the corporation in respect of its supply of superfast carriage services and other eligible services to residential customers using local access lines where the corporation is in a position to exercise control of those local access lines.

Pursuant to sections 151ZF and 151ZG of the Telecommunications Act, persons who elect to be bound by the Determination are required to supply local access line services, as defined in section 142A, and related activities on a non-discriminatory basis.

The Determination provides for compliance reporting to the ACCC. This requires the corporation to provide the ACCC with a written plan setting out the actions to be taken by the corporation for the purpose of ensuring it complies with the provisions of the Determination within 3 months of the person electing to be bound by the Determination along with annual compliance reporting as specified in the Determination and in a [form approved by the ACCC](https://www.accc.gov.au/regulated-infrastructure/communications/carrier-separation-rules/forms-for-functional-separation-undertakings/form-of-compliance-reports).

The ACCC has the power to revoke a person’s election to be bound by a deemed undertaking in particular circumstances. Under subsection 151B(7), the ACCC can revoke an election if any of the following occurs:

(i) the person has breached a fundamental provision of the undertaking;

(ii) the person has contravened the non-discrimination obligations in section 151ZF or 151ZG;

(iii) the ACCC is satisfied that the person has an unsatisfactory compliance record in relation to functional separation.

If the ACCC provides written notice to a person that revokes that person’s election to be bound by the deemed undertaking, the ACCC expects the revocation to take effect such that the person will need to become structurally separated within 12 months. Prior to providing any written notice of revocation, the ACCC would provide the person with a notice of its intention to revoke and afford the person at least 15 business days to make a submission in relation to the ACCC’s intention to revoke.

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| Key points for lodging your notice This notice is for the purpose of corporations electing to be bound by the *Telecommunications (Deemed Functional Separation Undertaking) Determination 2020* (the Determination). The Determination contains obligations that you should make yourself aware of before electing to be bound by its terms. Detailed information is available in the [Determination](https://www.accc.gov.au/system/files/Telecommunications%20%28Deemed%20Functional%20Separation%20Undertaking%29%20Determination%202020.pdf) and associated [explanatory statement](https://www.accc.gov.au/system/files/Telecommunications%20%28Deemed%20Functional%20Separation%20Undertaking%29%20Determination%202020%20-%20Explanatory%20Statement.pdf). You should consult this information and the relevant sections of the Telecommunications Act prior to lodging this notice. If you have any questions, you should contact the ACCC at telcoseparationrules@accc.gov.auShould you elect to be bound by the Determination, pursuant to section 151ZC of the Telecommunications Act, we will publish your corporation’s name on the [ACCC’s website](https://www.accc.gov.au/public-registers/telecommunications-registers), but we will not publish your contact details. This provides transparency about the corporations that have elected to be bound by the Determination.Once completed, please email the noticeto telcoseparationrules@accc.gov.au We will provide you with an e-mail acknowledging receipt of your notice. |



# Deemed functional separation undertaking notice

1. **Notice**

Notice is hereby given that:

*[Name of corporation to be bound by the Determination]*

elects to be bound by the *Telecommunications (Deemed Functional Separation Undertaking) Determination 2020*

Name of authorised representative: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Position: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Signature:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. **Contact details**

Provide the contact details for a person the ACCC can contact in relation to this notice. This can be any nominated representative, provided they are in the position to provide the ACCC with further information about matters related to the notice should it be required. Contact details will not be published on the ACCC’s website.

If the contact person or their details change, please advise the ACCC.

Contact person (name and, if relevant, position): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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Telephone number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Email address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_